

Using Multiple Award Schedules

**Advanced Version
Student Guide**

Version 5.0



Using GSA Multiple Award Schedules: Student Guide

Tips at a Glance...

As you read through this manual, look for this helpful tip to help you make a “Best Value” selection.



NUTS AND BOLTS TIP

These tips, identified by the icon shown here, are “how-to’s” designed to enhance your learning experience.



MAS DESK REFERENCE

As you read through this manual, look for these references for more detailed information on a particular subject.

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Course Overview

List of Acronyms and Websites

Below are acronyms that appear in this manual. The corresponding website addresses are listed when available.

AAC	Activity Address Code
AbilityOne	www.abilityone.gov
ADR	Alternative Dispute Resolution
A/OPC	Agency/Organization Program Coordinator
BOA	Basic Ordering Agreement
BPA	Blanket Purchase Agreement www.gsa.gov/bpa
CICA	Competition in Contracting Act
CMLS	Centralized Mailing List Service www.gsa.gov/cmls
COC	Certificate of Competency
CTA	Contractor Team Arrangement
eBuy	Electronic Request for Quotes System www.ebuy.gsa.gov
EPA	Economic Price Adjustment
FAPIIS	The Federal Awardee Performance and Integrity Information System www.fapiis.gov
FAR	Federal Acquisition Regulation www.acquisition.gov/far/index.html
FAS	Federal Acquisition Service www.gsa.gov/fas
FedBizOpps	Federal Business Opportunities www.FedBizOpps.gov
FPMR	Federal Property Management Regulations
FSS	Federal Supply Schedules
GFE	Government Furnished Equipment
GFI	Government Furnished Information
GFM	Government Furnished Material
GPE	Governmentwide Point-of-Entry Federal Business Opportunities www.fbo.gov
GSA	General Services Administration www.gsa.gov
GSAM	General Services Administration Acquisition Manual www.acquisition.gov/gsam/gsam.html
GWAC	Governmentwide Acquisition Contract www.gsa.gov/gwac

Welcome to GSA's *Using Multiple Award Schedules* training. This course is designed for the federal 1102 community working in both civilian and military agencies.

This course will cover the procedures for placing orders for supplies and services against Multiple Award Schedules (MAS) as outlined in Federal Acquisition Regulation (FAR) Subpart 8.4. Other parts of the FAR that are applicable to orders placed against Schedules will be referenced as necessary. This course is not a course in general FAR procedure such as protests, acquisition planning, preparation of statements of work, and contract files management, but will discuss these topics as they relate to Schedules contracting and ordering procedures.

In this one-day course, you will receive an in-depth view of the MAS program as it applies to the Acquisition Life Cycle. There are four lessons:

- ## Course Objectives

- ❖ Describe the MAS Program, to include benefits, prioritization, goals, and characteristics
- ❖ Describe the MAS Pre-Award activities, to include planning, requirements, and market research
- ❖ Apply ordering procedures for the MAS Program
- ❖ Describe the MAS Pre-Award activities, to include performance evaluation, administration, order termination, and closeout procedures

Lesson 1: MAS Program Overview

Notes

In this lesson, you will learn about the Multiple Award Schedules (MAS) program, GSA's responsibility for the program, how vendors participate, the basic structure of those contracts, and how they are used across the federal government.

Learning Objectives

- ❖ Recognize the purpose of the GSA Schedules program
- ❖ Identify the statutory authority of the GSA Schedules program
- ❖ Recognize how FAR Subpart 8.4 procedures benefit Schedule users over FAR Part 13/15 procedures
- ❖ List priorities for use of government supply sources
- ❖ Identify Schedule features in support of agency goals, to include sustainability and socioeconomic programs

Lesson Topics

- ❖ Topic 1: Introduction to the MAS program
- ❖ Topic 2: Benefits of the MAS program
- ❖ Topic 3: Priorities for Use
- ❖ Topic 4: Types of Schedules and Characteristics
- ❖ Topic 5: Meeting Agency Goals

GSA Mission and Priorities

Priorities:

- Delivering Better Value and Savings.** By using the purchasing power of the federal government, we will drive down prices, deliver better value, and reduce costs to our customer agencies. As a result, these agencies can focus their resources and attention on their core missions. We will also step up our efforts to save agencies money by creating 10 new ways that the entire government can purchase resources smarter and more efficiently. In addition, we are looking to maximize the value of our real estate assets and reduce our federal footprint. At the same time, we are looking to help our partner agencies find the space and services they need to serve the American people.

Expanding Opportunities for Small Businesses. Delivering the best value for government and the American people requires taking advantage of all resources. Central to that approach is expanding opportunities for small businesses throughout the country. GSA will share ideas and best practices across the organization and with our customer agencies. We are working with the small business community, including businesses owned by veteran, women, minority, and disadvantaged entrepreneurs, to strengthen partnerships and support the success of our vendors.

Making a More Sustainable Government. Going green saves green, and we are committed to a sustainable government that reduces energy and water use in federal buildings, responsibly disposes of electronic waste, and greens the federal fleet. GSA will also continue to work with businesses to make sustainable products and services readily available and affordable to our partner agencies. GSA has begun including life-

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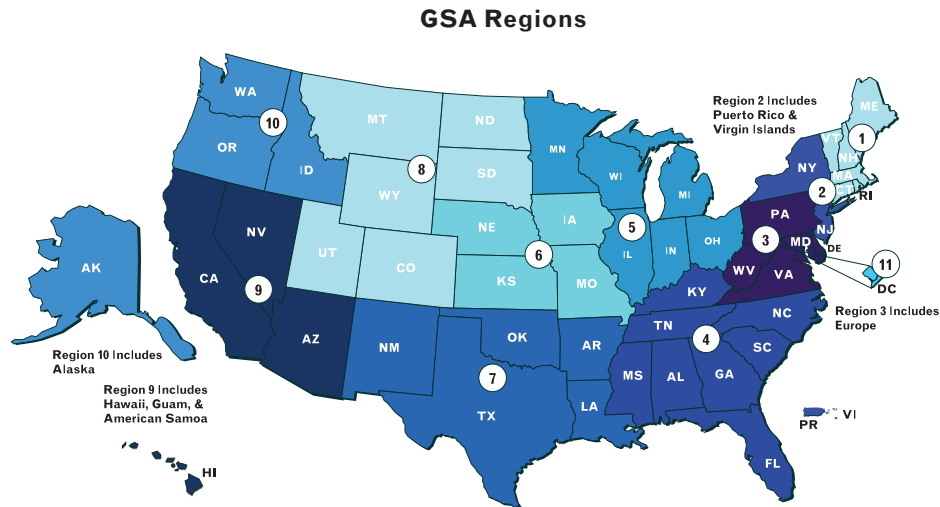
- ## FAS Business Portfolios

Office of Assisted Acquisition Services

- ❖ **Integrated Technology Services:** The Integrated Technology Services (ITS) organization combines many of GSA's Information Technology (IT) programs into a single FAS business portfolio. The main components of ITS are Acquisition Operations Management, IT Schedule 70, Governmentwide Acquisition Contracts (GWACs), Telecommunications and Network Services, Office of Infrastructure Optimization, Planning & Portfolio Management, and Program Support. ITS actively works with GSA's industry partners and customers to ensure that its solutions are relevant and represent the best, most up-to-date technology solutions. Customer agencies can choose from many acquisition vehicles and eTools to procure information technology, software, telecommunications products, services, and integrated solutions that best fit their acquisition and mission needs. ITS provides national program leadership across the 11 regional Network Services organizations.
- ❖ **General Supplies and Services:** The Office of General Supplies and Services (GSS) is responsible for acquisition services and comprehensive supply chain management, including excess/surplus federal property. GSS performs these activities with four business lines: Acquisition Operations, Supply Operations, Enterprise Supply Chain Solutions, and Personal Property Management.
- ❖ **Travel, Motor Vehicles, and Card Services:** The Travel, Motor Vehicles and Card Services (TMVCS) portfolio is responsible for establishing, managing, and delivering efficient and customer-centric travel, transportation, charge card, and motor vehicle products and services to the federal government. The four program offices under TMVCS are the Office of Acquisition Operations, the Office of Charge Card Management, the Office of Motor Vehicle Management, and the Office of Travel and Transportation. TMVCS strives to provide customers with the best value through competitive pricing and offer specialized expertise to help customers meet their needs.

❖ **Assisted Acquisition Services:** FAS' Assisted Acquisition Services (AAS) program offers value-added, customized, acquisition, project management, and financial management services for Information Technology related products and services and Professional Services to federal agencies worldwide. AAS trained staff are certified contracting, project management and financial management professionals located throughout the United States, Europe, and Asia. AAS offers expertise in formulating and executing Information Technology and Professional Services acquisitions and projects.

Notes



Responsibility for Management of MAS Program

- The Federal Acquisition Service (FAS) within GSA manages the MAS program.
- Schedules for medical services and supplies have been delegated to U.S. Department of Veterans Affairs (VA).

The U.S. General Services Administration (GSA) is a centralized federal procurement and property management agency designed to help federal agencies serve the public. GSA continuously seeks new supplies and services, designs innovative systems, introduces procurement models, addresses customer needs and expectations, and strives to create “Best Value” for customers.

Under a special agreement, GSA has delegated responsibility for management of Schedules for medical supplies and services to the U.S. Department of Veterans Affairs (VA). See www.fss.va.gov for more information.

What is a Multiple Award Schedule?

- Federal Supply Schedule (FSS) – governmentwide contract vehicle for **commercial** products, services, and solutions
- Also known as “GSA Schedules”
- GSA receives Schedule contract offers through standing solicitations posted on FedBizOpps
- GSA conducts negotiations; awards; and administers Schedule contracts IAW FAR Part 12

GSA Schedules

The MAS program provides eligible ordering activities with a simplified process for obtaining supplies and services. Schedule contracts are multiple award, Indefinite Delivery/Indefinite Quantity (IDIQ) contracts, which are awarded to responsible companies that offer commercial supplies or services at fair and reasonable prices. Products and services are ordered directly from Schedule contractors.

Multiple Award Schedules are also known colloquially as “GSA numbers,” “GSA Schedules,” “GSA contracts,” “Federal Supply Schedules (FSS),” and the “GSA list.” All of these terms are used synonymously within the federal contracting community to refer to the GSA MAS program. Through the MAS program, GSA contracts with thousands of commercial businesses that provide access to a vast array of professional services, such as management, financial, engineering, environmental, accounting, graphic design, and landscaping services. In addition to commercial services, commercial supplies range from computer hardware to office supplies.

Schedules website: www.gsa.gov/schedules

Agency Statutory and Regulatory Requirements

- All orders must be consistent with relevant requirements
- Ordering activity has ultimate responsibility for compliance
- Seek legal advice for conflicts between requirements and regulations

Any orders must be consistent with the ordering activity's statutory and regulatory requirements applicable to the acquisition of the supply or service. The ordering activity must ensure that the FAR and any agency supplements and/or local policy is followed when placing orders. Ordering activities should seek legal advice from their own legal counsel.

Topic 2: Benefits of the MAS Program

Notes

MAS Value Proposition

Realize cost savings

- Up-to-date, FAR-compliant acquisition vehicles that help minimize risks
- Competitive market-based pricing that leverages the buying power of the federal government, with the ability to negotiate further discounts at the order level
- Acquisition experts available to help customers make the most of MAS
- On-site and online training for help in using MAS

Pricing: GSA Contracting Officers negotiate fair and reasonable prices. Schedule contracts typically include prices that are the same as or better than the prices the Schedule contractors offer to their best commercial customers. The pricing offered to the best commercial customer is identified as “most favored customer” (MFC) pricing.



NUTS AND BOLTS TIP

If an agency issues a Schedule order using FAR Part 15 terminology and procedures, protest review authorities, such as the Government Accounting Office (GAO) and the courts, will review the action consistent with FAR Part 15 rather than less complex FAR Part 8.4 procedures and may sustain a protest.

Savings: The MAS program provides ordering activities with competitively awarded contracts to increase the productivity and capacity of scarce acquisition resources. In addition, the program offers quick and easy access to the right industry partners, allowing customers to make the most use of their valuable time.



MAS DESK REFERENCE

For more on the MAS Value Proposition, refer to the *MAS Desk Reference*, page 5.

MAS Value Proposition

Experience flexibility and choice

- The ability to tailor orders to get what you need by customizing terms and conditions at the order level
- Alternatives such as Blanket Purchase Agreements (BPAs) and Contractor Team Arrangements (CTAs) that can replace the need for agency Indefinite Delivery/Indefinite Quantity (IDIQ) contracts
- Decision tools and contracting solutions proven to meet complex requirements
- A vast selection of contractors offering expert solutions for services and products
- May set aside orders for small business at Contracting Officers discretion

Flexibility: Ordering activities have the flexibility to:

- ❖ Conduct best value procurements considering relevant “best value” factors
- ❖ Obtain a total solution to large or complex requirements using a Schedule CTA
- ❖ Establish a long-term relationship with a Schedule contractor or group of Schedule contractors using a Schedule BPA (Note that single-award BPAs may not exceed one year, with up to four, one-year options, per FAR 8.405-3(d)(2).)
- ❖ Include additional terms and conditions (e.g., a rating under the Defense Priorities and Allocations System (DPAS)) as long as they do not conflict with Schedule contract terms and conditions
- ❖ Section 1331 of the Small Business Jobs Act of 2010 (SBJA) created a change effective November 2, 2011. Contracting Officers can now, at their discretion, set aside orders and BPAs to small business or subset of small business (8.405-5(a))

Governmentwide Purchase Card (GPC) acceptance. All Schedule contractors must accept the GPC for orders below the micro-purchase threshold. However, many Schedule contractors accept the GPC for orders of any amount. Contracting Officers may use the GPC as a method of payment for orders up to their warrant limit. Cardholders must follow local agency guidelines for use of the GPC.

Extensive range of products/services: The wide variety and large number of Schedule contractors allow ordering activities to access an extensive range of supplies and services to satisfy their requirements. More than 17,000 Schedule contractors offer over 40 million supplies and services. These contractors are among the best firms in their industries, from small innovative companies to Fortune 500 firms. In addition, contractors can form Contractor Team Arrangements (CTAs) to meet large or unusually complex government requirements.

MAS Value Proposition

Notes

Save Time

- Pre-competed, on-demand contracts to increase the productivity and capacity of scarce acquisition resources
- Quick and easy access to the right industry partners, allowing customers to make the most use of their valuable time

Use of FAR Subpart 8.4 procedures significantly reduces the time required for competing for goods and/or services. Orders can be awarded in days or weeks, rather than months. Additionally, with over 17,000 companies holding Schedule contracts (managed under categories) user agencies generally find sufficient competition within the Schedule SIN (or category) under which they are competing.

MAS Value Proposition

Realize transparency

- A suite of eTools that can be leveraged to identify qualified contractors, maximize competition, and assist customers in reaching their socioeconomic goals
- Business intelligence into customer purchasing patterns when using our eTools

GSA eTools make it fast and easy to identify qualified contractors, maximize competition, and assist customers in reaching their socioeconomic goals.

MAS Value Proposition

Control the procurement

- Self-service access that allows agency contracting offices to retain control of their procurements, including requirements development, evaluation, award and administration
- Full-service options when in-house resources are tapped with other pressing projects

The MAS program provides ordering activities with both self-service access and full-service access to Schedule contractors. Activities that are at full capacity and do not have time to properly focus on the entire procurement process can use the full-service option to gain additional support. The self-service option allows agency contracting offices to retain control of their procurements, including requirements development, evaluation, award and administration.

FAR 8.002 - Priorities for Use of Mandatory Government Sources

Supplies*	Services
Agency Inventory	Services that are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (Ability One)
Excess from other agencies	
Federal Prison Industries	
Supplies that are on the Procurement List maintained by the Committee for Purchase From People Who Are Blind or Severely Disabled (Ability One)	
Wholesale Supply Sources (GSA / DLA)	



For more on Priorities, refer to the *MAS Desk Reference: Section 1*.

FAR 8.004 – Use of other sources

Notes

If Agencies are unable to satisfy requirements through mandatory sources they are encouraged to consider satisfying requirements through the following non-mandatory sources before considering commercial sources in the open market.

Supplies*	Services*
Federal Supply Schedules	Federal Supply Schedules
Governmentwide Acquisition Contracts	Governmentwide Acquisition Contracts
Multi-Agency Contracts	Multi-Agency Contracts
Other contracts or BPAs intended for Governmentwide use, i.e. Federal Strategic Sourcing Initiative (FSSI)	Other contracts or BPAs intended for Governmentwide use, i.e. Federal Strategic Sourcing Initiative (FSSI)
Wholesale Supply Sources	Federal Prison Industries

Note: Acquiring activities should determine if the required service or supply is available through GSA Schedules before considering any other commercial source.



MAS DESK REFERENCE

For more on Priorities, refer to the *MAS Desk Reference: Section 1*.

MAS Schedule Facts

- GSA Schedules provide access to over 40 million commercial supplies (products) and services at volume discount pricing. The Schedule List in the GSA eLibrary (www.gsaelibrary.gsa.gov) contains a list of all GSA and VA Schedules. The generic categories of supplies and services available under each Schedule may be viewed by clicking on the Schedule number in the "Source" column. Supplies and services are identified in each Schedule by Special Item Number.

Within each Schedule are specific SINS. SINS are groups of similar (but not identical) supplies or services that are intended to meet similar customer requirements. SINS are also known as categories.

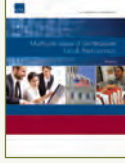
- ❖ 874 1 - Integrated Consulting Services
- ❖ 874 4 - Training Services
- ❖ 874 5 - Ancillary Supplies and/or Services
- ❖ 874 6 - Acquisition Management Support
- ❖ 874 7 - Integrated Business Program Support Services
- ❖ 874 8 - DAU and FAI Certified DAWIA and FAC Acquisition Workforce Training
- ❖ 874 9 - Off-the-Shelf Training Devices and Training Materials
- ❖ 874 99 - New Services

Notes

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MAS DESK REFERENCE

For more information, refer to the *MAS Desk Reference: Section 13: List of GSA Multiple Award Schedules*.

What Supplies are Available on Schedule?

- Office Supplies and Equipment
- Tools and Hardware
- Building and Industrial Materials
- Furniture
- Scientific Equipment
- Information Technology Products
- Vehicles and Support Equipment
- Appliances and Food Services
- Law Enforcement, Fire, and Security Products

Note: For a comprehensive list of services please visit GSA eLibrary.

www.gsaelibrary.gsa.gov



MAS DESK REFERENCE

For more information, refer to the *MAS Desk Reference: Section 13: List of GSA Multiple Award Schedules*.

FAR Subpart 8.4 Simplifies the Solicitation Process

In contrast to FAR Part 15, Contracting by Negotiation, Schedule orders do not require:

- Conducting a formal “negotiated procurement” (Source Selection Evaluation Board (SSEB))
- Issuing a “solicitation” for thirty days (or any other pre-determined time)
- Conducting a “competition” by seeking contractors outside the Schedules program
- Synopsizing the requirement on FedBizOpps, unless it’s a limited sources acquisition over the SAT
- Conducting “discussions”
- Conducting formal “debriefings” or “competitive range determinations”
- Using FAR Subpart 15.3 concepts and procedures

FAR Subpart 8.4 provides ordering procedures for placing orders against a GSA Schedule. FAR Part 13, *Simplified Acquisition Procedures*, Part 15, Contracting by Negotiation, and FAR Part 19, *Small Business Programs* [except for 19.202-1(e)(1)(iii)] are **NOT** applicable to orders placed against Multiple Award Schedules. (Except that FAR Subpart 13.303-2(c)(3) allows for BPAs to be established with Multiple Award Schedule contractors, if not inconsistent with the terms of the applicable Schedule contract, but see FAR 8.405-3 for BPA procedures under Schedules.)

Notes

Under FAR Subpart 8.4, as compared with FAR Part 15, ordering activities do NOT:

- ❖ Conduct a formal “negotiated procurement”
- ❖ Issue a “solicitation” for 30 days (or any other pre-determined time)
- ❖ Conduct a “competition” by seeking contractors outside the Schedules program
- ❖ Synopsise the requirement on FedBizOpps, unless it’s a limited sources acquisition over the SAT
- ❖ Conduct “discussions”
- ❖ Conduct formal “debriefings”
- ❖ Use FAR Subpart 15.3 concepts and procedures

When a Contracting Officer correctly chooses to not use FAR Subpart 15.3 concepts and procedures for a GSA Schedule-based order, the following are positive attributes of the task order selection process:

- ❖ There is no requirement to follow the FAR Subpart 15.305 requirement to “evaluate competitive proposals and then assess their relative qualities.” In other words, your evaluation system can immediately compare (and remember, we don’t say “compete” because the Competition in Contracting Act (CICA) requirements have already been met) one quote to another in order to determine the rank ordering for selection.
- ❖ You are not bound by the rules in FAR Subpart 15.3 for evaluating past performance, such as the requirement to provide a neutral rating to a quote without any past performance. Further, if you choose not to use past performance as an evaluation factor, there is no requirement to document the file with your rationale.
- ❖ There is no requirement to capture “the relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation...” as required in FAR Subpart 15.305. This means your evaluation system can be very streamlined. There is no requirement to set a competitive range using all the published evaluation factors. This means that you can save yourself and the Schedule contractor considerable time and money by phasing your procurement in a manner that uses the least costly factors to initially eliminate offerors.

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- PROTEST RISK:** If an agency issues a Schedule order using FAR Part 15 terminology and procedures, protest review authorities, such as the GAO and the courts, may sustain a protest against the order using FAR Part 15 procedures.

Federal Acquisition Regulation (FAR)

FAR Subpart 8.4, Federal Supply Schedules, prescribes procedures that federal government ordering activities must follow when issuing orders using GSA Schedules. Orders placed following these procedures are considered to be issued using full and open competition. (See FAR 8.404(a).)

FAR 6.102(d)(3), Competition Requirements, this subpart pertains to use of competitive procedures. It states use of MAS issued under the procedures established by the Administrator of General Services consistent with the requirement of 41 U.S.C. 259(b)(3)(A) for the MAS program of GSA is a competitive procedure.

In accordance with FAR 8.405-1 and 8.405-2, Schedule users:

In accordance with FAR 8.405-1 and 8.405-2, Schedule users:

- ## Negotiating Reductions from Schedule Prices

- Quantity and delivery/performance requirements.** The Schedules themselves contain no specific quantities, other than minimum and maximum order threshold amounts. The ordering activity sets specific order quantities and specific delivery or performance requirements when issuing an order under the Schedule contract.

When issuing an order, delivery or performance periods and all other order requirements must conform to the applicable terms and conditions of the Schedule contract; however, an ordering activity may add additional terms and conditions as long as they do not conflict with the Schedule contract.



It's a good practice for Contracting Officers to contact companies to whom orders have been awarded to ensure acceptance. Otherwise, the best indication of order acceptance is that the contractor performs or delivers. The Contracting Officer can learn of acceptance prior to the end of five days by calling the contractor.

Notes

- Provides for waiver of the Buy American Act
- Waivers granted for World Trade Organization (WTO) countries, North American Free Trade Agreement, Israeli Free Trade Agreements, etc.
- Since the estimated value of Schedule contracts exceeds the TAA thresholds, it applies to all orders placed against Schedules regardless of the dollar amount
- FAR Subpart 25.4

The Trade Agreements Act (19 U.S.C. 2501, et seq.) is the enabling statute that implements numerous multilateral and bilateral international trade agreements and other trade initiatives between the United States and other designated countries. Because the estimated dollar value of each Schedule exceeds the established TAA threshold, the TAA is applicable to all Schedules. In accordance with the TAA, only U.S.-made or designated country end products shall be offered and sold under Schedule contracts.

Topic 5: Meeting Agency Goals

MAS Supports Small Business Utilization

- MAS program promotes small business through socioeconomic preference or set-asides
- FAR Part 19, *Small Business Programs*
 - Applies to Schedule contracts
 - Does not apply to orders
- Exception to FAR 19 applicability at the order level:
 - Bundling (FAR19.202-1(e)(1)(iii))
 - Size standard criteria

FAR Part 19 provides guidance to federal agencies on how to implement facets of the Small Business Act, as amended. However, Part 19, with one small exception (bundling) does NOT apply when using the GSA Schedules' ordering procedures. Part 19 does apply when those Schedule contracts are being negotiated and awarded. However, based on a recent statutory change and associated FAR implementation, Contracting Officers may now elect, at their discretion, to apply the set-aside process to the placement of Schedule orders and establishment of Schedule BPAs.

MAS Supports Small Business Utilization (continued)

Socioeconomic Preference (Non Set-Aside orders)

- Consider at least one small business prior to placing an order (8.405-5(c))
- Give preference to small business if you have at least two (2) quotes at the same delivered price from small business (8.405-5(d))
- Encourages use of Contractor Team Arrangements (CTAs)
- No limitation on subcontracting
- Ordering activity receives socioeconomic credit (8.405-5(b))
- Consider socioeconomic status as a primary evaluation factor (8.405-5(c))
- May choose small business subcontracting as an evaluation factor

MAS Supports Small Business Utilization (continued)

Notes

- If available, ordering activities should consider at least one:
 - Small business
 - Veteran-owned small business
 - Service disabled, veteran-owned small business
 - HUBZone small business
 - Women-owned small business
 - Small disadvantaged business

“Veteran-owned small business concern” means a small business concern –

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

SDVOSB firms are owned by one or more members of the military that incurred a disability while serving his or her country. Under the Veterans Benefit Act of 2003, the federal government seeks to provide contracting assistance to SDVOSBs.

Note that there is only a statutory goal for SDVOSBs and not just veteran-owned small business concerns. Set-asides under the MAS program are now permissible, if market research indicates there are enough firms in the same socioeconomic category. Additionally, if an award is made to one of these small business types either through a set-aside or not, your agency will get credit for the award in FPDS.

“Women-owned small business concern” means a small business concern –

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

In addition to the long standard category of small businesses owned by women, SBA recently added two new related classifications. These are Women-owned Small Businesses, WOSB, and Economically Disadvantaged WOSBs, or EDWOSB. A small business that is woman owned that meets the new requirements can apply for WOSB or EDWOSB status and may either can self-certify to their qualifications or be certified by a designated third party. These new categories also permit agencies to conduct set-asides, including ones done under MAS, for either category. This differs from the existing general small business woman-owned status that does not permit set-asides. Regardless of whether awarded through set-asides or through a non-restricted, open competition basis, agencies are given credit towards women-owned small goals if the

Notes	award is made to a general owned woman business or one that qualifies under the two new categories.
	HUBZone” means a historically underutilized business zone that is an area located within one or more qualified census tracts, qualified nonmetropolitan counties, BRAC former military bases, or lands within the external boundaries of an Indian reservation.
	“HUBZone small business concern” means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration. HUBZone firms will also be visible at www.sam.gov and on <i>GSA Advantage!</i> ®.
	8(a) firms are called this because they were identified in Section 8(a) of the Small Business Act. The term 8(a) is often used in place of “Disadvantaged” but they are not synonymous. Only disadvantaged businesses meeting certain criteria can be accepted by SBA into the 8(a) program which is used to develop and grow the business over time.
	Section 8(a) of the Act authorizes SBA to contract for goods and services with federal agencies. SBA then subcontracts actual performance of the work to socially and economically disadvantaged small businesses, which have been certified by SBA as eligible to receive these contracts. The major advantage of this program is that it allows the government to contract, on a noncompetitive basis, with socially and economically disadvantaged small businesses. SBA also offers managerial, technical, and financial support to participating firms not to exceed \$6.5 million if the acquisition has an assigned NAICS code, and \$4 million for all other acquisitions.
	Remember that orders and BPAs can be set aside for 8(a) firms. All orders to an 8(a) Schedule-holder will count as credit towards the agency’s five percent small disadvantaged business goals.

FAR Part 19: Small Business Programs

- Part 19 generally does not apply to Schedules orders – (See 8.404(a))
 - FAR 8.405-5 provides policy for Schedules set-asides
- **19.502-4 Multiple-award contracts and small business set-asides.**
 - Contracting officers may, at their discretion –
 - (c) Set aside orders placed under multiple-award contracts for any of the small business concerns identified in FAR 19.000(a)(3)...
 - For Federal Supply Schedules program orders see FAR 8.405-5.
- **19.508(c)** requires clauses for total and partial set-asides as well as limitations on subcontracting be added to orders under MAS.

FAR 19.508(c) requires use of the following FAR 52.219-6 clause when an MAS set-aside is involved:

Notes

Notice of Total Small Business Set-Aside (Nov 2011)

- a) Definition. "Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the size standards in this solicitation.
- (b) *Applicability.* This clause applies only to –
- (1) Contracts that have been totally set aside or reserved for small business concerns; and
 - (2) **Orders set aside for small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).**
- (c) *General.*
- (1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.
 - (2) Any award resulting from this solicitation will be made to a small business concern.
- (d) *Agreement.* A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

FAR Subpart 8.405-5 – Small Business

- **8.405-5(a)** – Preference programs of Part 19 are not mandatory
- **8.405-5(a)(1)** – Set-asides are **discretionary** for orders and BPAs against Multiple Award Schedules.
- **8.405-5(a)(2)** – Follow the ordering procedures at:
 - 8.405-1 – Products and services without SOW
 - 8.405-2 – Services with an SOW
 - 8.405-3 – BPAs
 - The specific small business program eligibility requirements identified in Part 19 apply.

8.405-5 Small business.

- a) Although the preference programs of Part 19 are not mandatory in this subpart, in accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r))–
- (1) Ordering activity Contracting Officers may, at their discretion –
- (i) Set aside orders for any of the small business concerns identified in 19.000(a)(3); and
- (ii) Set aside BPAs for any of the small business concerns identified in 19.000(a)(3).
- (2) When setting aside orders and BPAs –
- (i) Follow the ordering procedures for Federal Supply Schedules at 8.405-1, 8.405-2, and 8.405-3; and
- (ii) The specific small business program eligibility requirements identified in Part 19 apply.
- (b) Orders placed against Schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business Schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by Schedule contractors at the contract level.
- (c) Ordering activities may consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business Schedule contractor(s). *GSA Advantage!*[®] and Schedules eLibrary at www.gsaelibrary.gsa.gov contain information on the small business representations of Schedule contractors.
- (d) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

FAR Subpart 8.405-5 – Small Business

Notes

- 8.405-5(b) – Orders placed against Schedule contracts may be credited toward the ordering activity's small business goals.
 - For purposes of reporting, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed
 - Ordering activities should rely on the small business size representations made at the Schedule contract level
- Agencies do not need to make a separate size determination at the order level, however...
 - GAO has upheld agencies' right to request a recertification at the order level (CMS Information Services Inc., B-290541, Aug. 7, 2002)

8.405-5 Small business.

- (b) Orders placed against Schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business Schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by Schedule contractors at the contract level.
- (c) Ordering activities may consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business Schedule contractor(s). *GSA Advantage!*® and Schedules eLibrary at www.gsaelibrary.gsa.gov contain information on the small business representations of Schedule contractors.
- (d) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

Size determinations for contractors are also shown in each contractor's GSA Schedule Contract price list. In accordance with SBA Regulations and the FAR. The size determination made at contract award applies for the life of that contract unless one of three events occurs and the contractor is then required to update its size: 1. Novation; 2. Merger or Acquisition; and 3. Option exercise of the Schedule contract. Ordering activities should rely on the information found on eLibrary and *GSA Advantage!*®.

Certification Requirements for MAS Contracts

- MAS contracts size standard certification is generally valid for five years
- Firms must recertify at the time of an option exercise
 - Exceptions:
 - Novation (within 30 days after effective)
 - Merger or Acquisition (within 30 days after effective)
- See FAR 19.301-2

FAR 19.301-2(b)(3) includes the following requirements for recertification prior to exercise of options plus for novations and mergers or acquisitions:

"A contractor that represented itself as a small business concern before contract award must represent its size status for the North American Industry Classification System (NAICS) code in the contract upon the occurrence of any of the following:

- 1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Representation, if the novation agreement was executed prior to inclusion of this clause in the contract.
- 2) Within 30 days after a merger or acquisition of the contractor that does not require novation or within 30 days after modification of the contract to include the clause at 52.219-28, Post-Award Small Business Program Representation, if the merger or acquisition occurred prior to inclusion of this clause in the contract.
- 3) For long-term contracts –
 - (i) Within 60 to 120 days prior to the end of the fifth year of the contract; and
 - (ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter."

Nonmanufacturer (NMR) Rule

What is the Nonmanufacturer Rule?

- On a supply contract, a firm must perform at least 50% of the cost of manufacturing the supplies (not including the cost of materials).
- The NMR provides that...
 - a firm that is not a manufacturer may qualify as a small business on a supply contract that has been set aside for small business if it supplies the product of a domestic small business manufacturer.

For additional information: www.sba.gov/content/non-manufacturer-waivers

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Nonmanufacturer (NMR) Rule Continued

Language applying the NMR to set-aside Schedule orders can be found in the following clauses:

Clause	Title
52.219-3	Notice of HUBZone Set-Aside or Sole Source Award (Nov-2011)
52.219-6	Notice of Total Small Business Set-Aside (Nov-2011)
52.219-27	Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov-2011)
52.219-29	Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Nov-2011)
52.219-30	Notice of Set-Aside for Women-owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Nov-2011)

Required Clauses

These clauses are in the Schedule contract and flow down to the order when conducting set-asides.

Clause	Title
52.219-3	Notice of Total HUBZone Set-Aside or Sole Source Award (Nov-2011)
52.219-6	Notice of Total Small Business Set-Aside (Nov-2011)
52.219-13	Notice of Set-Aside of Orders (Nov-2011)
52.219-14	Limitations on Subcontracting (Nov-2011)
52.219-27	Notice of Total Service-Disabled, Veteran-Owned Small Business Set-Aside (Nov-2011)
52.219-29	Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Nov-2011)
52.219-30	Notice of Total Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Nov-2011)

The following clauses are in each Schedule small business contract and flow down to the order when a set-aside is conducted at the order level. As a best practice, the ordering activity contracting officer should reference these clauses in the task order.

- 52.219-13 Notice of Set-Aside of Orders (NOV 2011)
- 52.219-3 Notice of HUBZone Set-Aside or Sole Source Award (NOV 2011)
- 52.219-6 Notice of Total Small Business Set-Aside (NOV 2011)
- 52.219-14 Limitations on Subcontracting (NOV 2011)
- 52.219-27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011)

Notes

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Socioeconomics: Set-aside

- FAQ concerning Set-asides on Schedules
 - www.gsa.gov/portal/content/113371
 - www.gsa.gov/schedulesandsbgoals

Meeting Agency Goals: Going “Green”

- What do we mean by “Green”?
- “**Green purchasing**” or “**sustainable acquisition**” refers to purchasing products with these attributes and purchasing services under which these products will be supplied or used.
 - Federal agencies are required by statutes and executive orders to purchase certain products with specific environmental or energy attributes.
 - For example, janitorial services contracts usually require the contractor to supply replacement paper towels, toilet paper, and plastic trash can liners, all of which can be made from recycled materials.

Meeting Agency Sustainability Goals

Federal agencies are required by statutes and executive orders to purchase certain products with specific environmental or energy attributes. E.O. 13423, *Strengthening Federal Environmental, Energy, and Transportation Management*, set acquisition-related goals for purchasing green products, alternative fuel vehicles, sustainable buildings, and green IT. E.O. 13514, *Federal Leadership in Environmental, Energy, and Economic Performance*, set a goal that 95% of contract actions must require green products.

GSA is committed to provide world-class products and services that minimize harm to the environment, safety, and health. GSA is greening the Multiple Award Schedules to add more green products and to limit certain products to green-only offerings, such as ENERGY STAR® appliances. GSA is living up to this commitment, not only in regards to the products and services we provide customers, but also in the way we conduct internal operations. Learn more at www.gsa.gov/gogreen.

Explanation of the 95% Goal in E.O. 13514

Section 2(h) of E.O. 13514 requires agencies “to ensure that 95 percent of new contract actions including task and delivery orders, for products and services” include green product requirements “where such products and services meet agency performance requirements.” What does this mean?

The E.O. requirement does not apply to all contract actions. It applies to *applicable* contract actions. “Applicable” contract actions are for the purchase of one or more products designated in the federal green purchasing program or for the purchase of services in which products will be supplied or used. The types of contract actions are:

Notes

- ❖ New contracts issued in the first quarter of FY 2011, including BPAs
- ❖ Solicitations for new contracts, even if the expected award will be in a subsequent quarter
- ❖ Modifications to existing contracts to add green product requirements
- ❖ Task orders under existing multi-year contracts
- ❖ Indefinite Delivery/Indefinite Quantity (IDIQ)
- ❖ Multiple Award Contracts
- ❖ Multiple Award Schedules
- ❖ Requirements Contracts

Environmental Program Scope

- Recycled content products
- Energy-efficient and water-efficient products
 - Standby power devices
 - EPEAT-registered products
 - WaterSense products
 - ENERGY STAR® and FEMP-designated products
- Alternative fuel vehicles/hybrids/plug-ins/alternative fuels
- Biobased products
- Environmentally preferable products and services
- Non-ozone depleting substances
- Low or non-toxic or non-hazardous chemicals

Purchases of Products

Purchases of any type of product listed on the GSA Green Products Compilation, including purchase card transactions, are considered to be “applicable.” The products listed are those for which the U.S. Environmental Protection Agency (EPA), U.S. Department of Energy (DOE), or U.S. Department of Agriculture (USDA) have issued designations or otherwise provided guidance for product environmental or energy attributes. Note that it is not the intent of the compilation tool to list all environmentally sustainable products in the marketplace and that the green purchasing requirements apply only to the designated products.

Notes	<p>Purchases of Services</p> <p>Because products are supplied or used as part of services contracts, the green purchasing requirements also apply to the purchase of services. Per the Office of Management and Budget (OMB), purchases of any of the following services are considered to be “applicable” contract actions:</p> <ul style="list-style-type: none">❖ Building construction, renovation, or repair❖ Building operations and maintenance❖ Landscaping services❖ Pest management❖ Electronic equipment, including leasing and maintenance❖ Fleet maintenance❖ Janitorial services❖ Laundry services❖ Cafeteria operations❖ Meetings and conference services <p>In order to be compliant with the green purchasing requirements, contracts for these services must require the use of green products when any of the following products are part of the contract’s scope of work:</p> <ul style="list-style-type: none">❖ EPA Comprehensive Procurement Guideline (CPG)-designated products❖ ENERGY STAR®- or Federal Energy Management Program (FEMP)-designated products❖ Electronic Product Environmental Assessment Tool (EPEAT)-registered products❖ USDA-designated Biopreferred/Biobased products❖ EPA WaterSense or other water efficient products❖ Non-ozone-depleting products or alternatives listed under the EPA SNAP Program (Significant New Alternatives Policy)❖ Products containing non- or less toxic chemicals or containing alternatives to those on EPA’s Priority Chemicals list❖ Alternative fuel vehicles and alternate fuels❖ Environmentally preferable products or services❖ Products otherwise determined to be environmentally sustainable <p>For other services contracts, the use of recycled content paper should be considered. The preference is for all deliverables and administrative documents to be submitted electronically. However, should the contracting team determine paper is necessary, then the contract must require that paper deliverables and administrative documents be printed and copied two-sided on paper containing at least 30 percent postconsumer fiber.</p>
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Notes

Examples of environmentally preferable products are:

- Visit www.gsa.gov/gogreen for a full list of sustainable solutions.

GSA will eliminate its impact on the natural environment and use its government-wide influence to reduce the environmental impact of the federal government. – GSA Sustainability Plan

► Business Solutions for Sustainable Acquisition



Learn how GSA is developing and evaluating green technologies and practices:



News

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Answer:



Answer:



Answer:

Lesson 2: MAS Pre-Award Activities

Notes

In this lesson, you will learn about the various pre-award milestones as they relate to using the Multiple Award Schedule program. This will help ensure that the program office gets what it needs and that vendors will be able to compete in an equitable environment.

Learning Objectives

- ❖ Describe the acquisition planning process
- ❖ Identify thresholds for limited source justification
- ❖ Identify the steps in requirement writing and Request for Quotation (RFQ) development
- ❖ Recognize the importance of market research

Lesson Topics

- ❖ Topic 1: Acquisition Planning
- ❖ Topic 2: Requirement Writing and Request for Quotation (RFQ)
- ❖ Topic 3: Market Research

Topic 1: Acquisition Planning

Acquisition Planning: Background and Objectives

- Statement of need
- Applicable conditions
- Independent Government Estimate (IGE)
- Possibility of small business set-asides
- Capability or performance
- Delivery or performance period requirements
- Trade-offs
- Risks
- Acquisition streamlining

After the ordering activity identifies what the requirements are for the acquisition, the next question the ordering activity must answer is how to acquire the product or service. This is known as the acquisition strategy or acquisition plan.

Acquisition Planning. Schedule orders are not exempt from the development of acquisition plans required by FAR Subpart 7.1 or an Information Technology Acquisition Strategy required by FAR Part 39. Therefore, any planning requirements that apply to an open market acquisition also apply to a Schedule order.

The plan must identify milestones at which decisions should be made and address all the technical, business, management, and other significant considerations that will control the acquisition. The length and depth of the acquisition plan should be commensurate with the size and complexity of the procurement.

FAR Subpart 7.1 recommends breaking the plan into two parts: *Acquisition Background and Objectives* and *Plan of Action*. Acquisition background and objectives includes the following, if they are relevant to the acquisition:

- ❖ **Statement of need.** Introduce the plan by a brief statement of need. Summarize the technical and contractual history of the acquisition. Discuss feasible acquisition alternatives, the impact of prior acquisitions on those alternatives, and any related in-house effort.

- ## Notes
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NUTS AND BOLTS TIP

Acquisition Plans. GSA Schedule orders are not exempt from the development of Acquisition Plans, IAW FAR Subpart 7.1 or an Information Technology Acquisition Strategy plan IAW FAR Part 39. Therefore, any planning requirements that apply to open market acquisitions also apply to a Schedule order.

For Schedule orders in excess of \$500,000 a written determination shall be made that use of the MAS program is the best procurement approach, per FAR Part 17.502-1(a).

Acquisition Planning: Action Plan (1 of 3)

- Sources
- Competition
- Major components or subsystems
- Source-selection procedures
- Acquisition considerations
- Budgeting and funding

Sources. Market research will help the Contracting Officer learn whether items/ services can be acquired from required sources of supply, and use of eLibrary can help determine which vendors sell the needed supplies and/or services.

Competition. All Schedule orders over the micro-purchase threshold must be competed. Orders up to the SAT require consideration of at least three vendors before making a best value decision. Orders over the SAT must receive at least three written quotations in response to an RFQ. Use of eBay will help ensure that the maximum number of vendors is notified of the acquisition. If fewer than three written quotations are received, the Contracting Officer must document the file as to what occurred and what can be done differently in the future to ensure competition.

Major Components or Subsystems. Discuss component breakout plans relative to these major components or subsystems. Describe how competition will be sought, promoted, and sustained for these components or subsystems.

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AS Pre-Award Activities | 43

Make or buy. Though this is part of the acquisition plan content requirements, Schedules are for commercial items/services, and this issue is probably not pertinent. It generally applies to acquisitions in excess of \$12.5 million. See FAR 15.407-2.

Test and evaluation. Describe the testing and acceptance procedures that will be used.

Logistics. Consider the delivery and maintenance capabilities of vendors who provide the products and/or services to ensure life cycle support is available.

Government-furnished property. Any items or facilities that will be furnished to the awardee for performance of the order must be clearly identified. This directly impacts price.

Government-furnished information. Discuss any information, drawings, manuals, etc., that will be provided to the awardee, including special handling requirements, if any, to protect the information.

Environmental objectives. Discuss all applicable environmental and energy conservation objectives associated with the acquisition. This includes specifying the use of environmentally-friendly products.

Security. Describe all pertinent security considerations for both information and personnel, including access to government information systems.

Contract administration. Describe how the order or BPA will be administered, and by whom.

Acquisition Planning: Action Plan (3 of 3)

- Other considerations
- Milestones for the acquisition cycle
- Identification of participants in acquisition plan preparation

Other considerations. If applicable, discuss standardization considerations, Occupational Safety and Health Act (OSHA) considerations, the SAFETY Act, etc. See FAR 7.105(b)(20).

Milestones for the acquisition cycle. For Schedule orders, the following milestones should be identified: Acquisition plan development and approval, definition of requirements approved, certification of funds availability, development and approval of the RFQ, issuance of the RFQ, due date for receipt of quotations, completion of evaluation of quotations, source selection and award.

Identification of participants in acquisition plan preparation. List the individuals participating in the development of the acquisition plan, including contact information.

Limiting Sources (8.405-6)

Questions to Determine Competition Limitations

- Is the SOW or PWS narrowly defined with overly restrictive specifications or performance standards?
- Is the order written in such a way as to create a continuous arrangement with the same contractor?
- Does one of the conditions in FAR 8.405-6 apply and is the reason well documented?
- Is it a brand name or equivalent?
- What is the total dollar amount of the proposed acquisition?

Alternatives to Open Market Items in the Schedules Environment

Using Schedule items helps to minimize acquisition costs because the government has already vetted the contractor and determined the pricing to be fair and reasonable. Open market items require the Contracting Officer's administrative time and effort to make a fair and reasonable price evaluation, IAW FAR procedures.

Ordering activities have three options to avoid using open market items:

- ❖ **Schedule contract modification:** It is possible to modify the Schedule contract to add new items or labor categories in order to meet a specific agency requirement.
- ❖ **Contractor Team Arrangements (CTAs)** bring together multiple Schedule contractors as a team to provide a total solution for the requirement. For example, one team member might be on a Schedule to provide installation and consulting services for a specific type of equipment. Another Schedule contractor might be on a different Schedule to provide the equipment but not the installation. By teaming together these contractors could offer a single solution that avoids the need to search the open market. This approach benefits both contractors and the government. RFQs can state that the ordering activity will accept a teaming solution.
- ❖ **Government-Furnished Property (GFP)/Government-Furnished Equipment (GFE)** includes facilities, equipment, material, supplies, or other services provided by the government for use by all prospective service providers in the solicitation.

Threshold	LSJ Required	Posting Required
Exceeds SAT	Yes	Yes
Micro – SAT	Document Circumstances – not a full blown LSJ	No
Below Micro-purchase	No	No

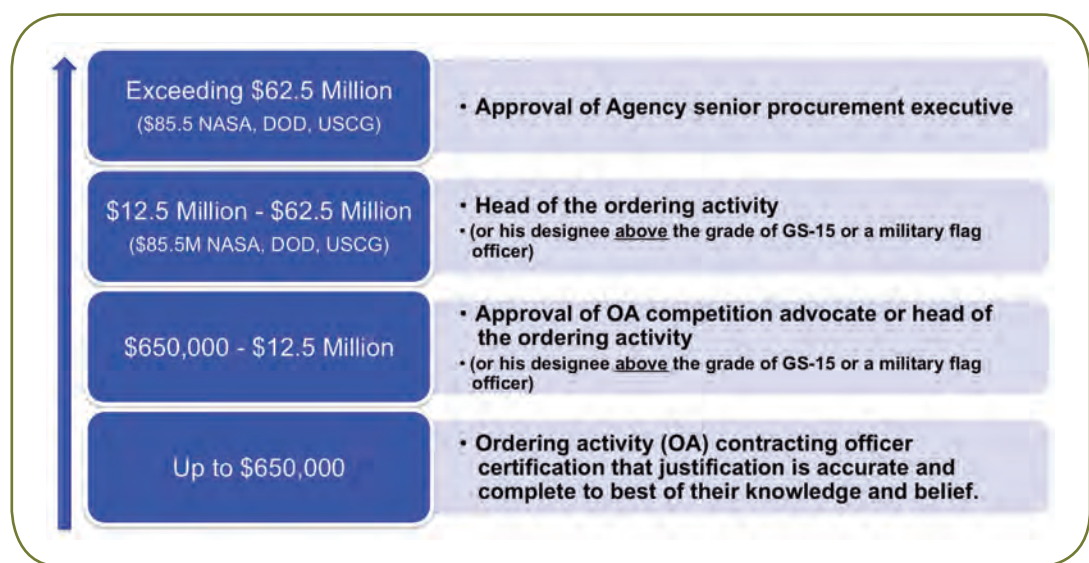
- ❖ Publish a notice in accordance with FAR Subpart 5.301 **and**
- ❖ Post the justification:
 - ❖ At www.fedbizopps.gov **and**
 - ❖ On the website of the ordering activity agency, which may provide access to the justification by linking to FedBizOpps **and**
 - ❖ For a minimum of 30 days.

Brand Name (8.405-6(b))		
Threshold	LSJ Required	Posting Required
Exceeds SAT	Yes	Yes – eBuy
\$25k – SAT	Document Circumstances – not a full blown LSJ	Yes – eBuy
Micro – \$25k	Document Circumstances – not a full blown LSJ	No
Below Micro-purchase	No	No

Notes

- ❖ For proposed orders or BPAs with an estimated value exceeding \$25,000, but not exceeding the simplified acquisition threshold, Contracting Officer shall document the file.
- ❖ For proposed orders or BPAs with an estimated value exceeding the simplified acquisition threshold, Limited Sources Justification.

Limited Source Justification Approval Requirements



Exception to Publication of Limited Source Justifications

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- Disclosure would compromise the national security or create other security risks
- Agency Senior Procurement Executive makes a written determination that access through eBuy is not in the government's interest
- The file size or format does not make it cost-effective or practicable for eBuy

IAW FAR 8.405-6(a)(2) the posting requirement does not apply when disclosure would compromise the national security or create other security risks.

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IAW FAR 8.405-6(b)(3), justifications for limited source orders or BPAs, when restricting to items “peculiar to one manufacturer” (“brand name” restriction) must be published together with the RFQ to eBuy unless:

- The justification or documentation for use of brand name must be completed and approved at time the requirement for brand name is determined – either at the order level or at a BPA level is the requirement is broad in scope. In addition, if an order uses brand name description and is placed under a BPA where a justification was not completed, one must be then prepared for the order.

Notes

- Deliverable schedule
- Applicable compliance requirements
- Any special requirements
- Work to be performed
- Location of work
- Period of performance

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An RFQ is appropriate when you are familiar with your requirements, and have knowledge that competition requirements will be met or exceeded within the MAS program.

RFQ Content

Contractor Needs to Know	RFQ Component
What will the contractor do?	SOW/PWS
What does the government think is important for award?	Evaluation Factors
What does the government need to see?	Quote submission instructions
What other terms apply?	Non-conflicting terms
What Schedules and SINs are needed for the PWS?	SIN and Schedule numbers

The purpose of the RFQ is to provide potential contractors with a clear understanding of the requirement so they can present an accurate quote. Therefore, keeping the RFQ simple, avoiding acronyms, and writing in the active voice can make the quoting process easier for both the contractor and the ordering activity. When listing the evaluation factors in RFQs for Schedule orders, the ordering activity needs to include the major factors and their relative order of importance. It is a best practice not to include sub-factors.

If the ordering activity has determined that it is going to make socioeconomic status a primary evaluation factor, it must be clearly stated in the RFQ. If the ordering activity needs to add any additional terms and conditions, it must ensure that they do not conflict with those of the Schedule contract. It is not necessary to add new terms and conditions to a Schedule order.

RFQ Components

- Statement of Work (SOW) or Performance Work Statement (PWS)
- Quality Assurance Surveillance Plan (QASP) if performance-based
- Other relevant attachments
 - Special requirements
 - Evaluation criteria
 - Information and instructions for quoters

The RFQ is comprised of the SOW, quote submission instructions, and evaluation criteria. Depending on the type of service sought, a QASP or other relevant documents might help contractors understand the scope of the work better and provide a more accurate quote. The ordering agency should identify any items attached to the RFQ.

Ordering activities may prepare and post RFQs for specific products and services offered under GSA Schedules on www.ebuy.gsa.gov.

Notes

FAR 8.405-2 requires that all SOWs for Schedule task orders include information on the following:

- ❖ Work to be performed/results sought
- ❖ Location of work
- ❖ Period of performance
- ❖ Deliverable schedule
- ❖ Applicable performance standards (if performance-based; otherwise, inspection and acceptance criteria)
- ❖ Any special requirements (e.g., security clearances, travel, special knowledge, agency-specific policies and procedures)



MAS DESK REFERENCE

For more information, refer to the *MAS Desk Reference: Section 8*.

SOW/PWS Language Tips (1 of 2)

- Use simple words, phrases, and sentences
- Be concise, precise, and consistent
- Use active voice verbs
- Use “shall” or “must” when writing a requirement binding on the contractor
- Use “will” to indicate actions by the government
- Use terminology consistently
- Avoid redundancy
- Avoid vague or inexact phrases and generalizations

Many different people with different perspectives and life experiences read the SOW. Readers typically include government and industry contracting personnel, managers, technical experts, accountants, and lawyers. All these readers need to understand the SOW. Therefore, language selection is very important. It is the responsibility of the government to write a clear and concise SOW.

SOW/PWS Language Tips (2 of 2)

- Define technical terms
- Avoid using government jargon
- Avoid using “any,” “either,” “and/or,” etc.
- Spell out abbreviations or acronyms the first time they are used
- Identify the date or version of any document referenced in the SOW
- Advise readers from industry where they can obtain referenced documents

GSA provides sample SOWs at www.gsa.gov/sowlibrary.

Also see the MIL-HDBK-245D, *Handbook for Preparation of Statement of Work*, www.acquisition.gov/comp/seven_steps.

Quality Assurance Surveillance Plan (QASP)

- Plan for monitoring performance against PWS requirements
- Focus:
 - Quality/Accuracy
 - Quantity
 - Timeliness
 - Customer satisfaction
- Prepared in conjunction with PWS
 - (See FAR Subpart 46.4 for QASP requirements)

When the acquisition is performance-based, the QASP describes how the government plans to determine whether the contractor is achieving the desired quality and/or service levels. When purchasers need a QASP, it should be prepared in conjunction with and included as part of the PWS/SOO, OR the government may ask Schedule contractors to submit a QASP as part of their quotation.

Preparing the QASP may reveal a significant weakness in the PWS/SOO. It is easier to correct a weakness in the requirements document while it is being refined rather than after it has been approved or published. The QASP should focus on the quality, quantity, and timeliness requirements established in the PWS/SOO. Therefore, it is vital that the PWS/SOO requirements are measurable and that the procedures established in the QASP are adequate for that measurement.

Evaluation Criteria

Notes

- Method of evaluation is determined by agency procedures:
 - Color
 - Adjectival
- Method of evaluating quotes for:
 - Multiple items
 - Order options
- Significant factors to be considered in quote evaluation
- Non-price factors evaluation

The RFQ should provide Schedule contractors with information on how the ordering activity will evaluate quotes and award the orders.

Method of evaluating quotes for multiple items. When an RFQ includes multiple items, it should state whether the Schedule user intends to:

- ❖ Issue a single order for all items
- ❖ Issue a single order or multiple orders by line item
- ❖ Use some other method for issuing orders based on the evaluation of the quotes received

Method for evaluating quotes for order or BPA options. The RFQ should state how quotes for any RFQ options are to be evaluated. Options can be for additional quantities or for extensions to the period of performance. If there is a high probability that the Schedule user will exercise an option, it should be included in the evaluation. If there is a low probability that the option will be exercised, it should not be considered in the quote evaluation.

Significant factors to be considered in quote evaluation. Identify all significant factors that the Schedule user will consider in selecting the contractor that provides the best value. The Schedule user must consider price and may consider:

- ❖ Past performance
- ❖ Technical qualifications
- ❖ Preference for the items of small business concerns when two or more items at the same delivered price will satisfy the requirement as indicated in FAR 8.405(c)
- ❖ Any other best value factors that represent the key areas of importance to be considered in the selection decision, and support meaningful comparison and discrimination between and among competing quotes

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Ordering activities should make sure that contractor instructions provide sufficient information so that contractors will provide adequate information to evaluate quotes based on the identified factors. The RFQ should never require information if it is not needed or is already reasonably available.



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Notes

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- Market research is the process of collecting and analyzing information to become an educated consumer. The more you understand the product or service and how it is acquired in the commercial marketplace, the better equipped you'll be to conduct the acquisition.

Factors that must be addressed to begin market research include:

- The primary purposes of market research are to:

- Lesson 2: MAS Pre-Award Activities | 57

Notes

- ❖ Determine whether sufficient small business sources exist to potentially set aside the order
- ❖ Determine the practices of firms engaged in fulfilling the requirement, including warranties, maintenance, packaging, and marking
- ❖ Ensure the maximum practicable use of recovered materials and promote energy conservation and efficiency
- ❖ Determine whether bundling is necessary and justified

The ultimate goal is for the ordering activity personnel to become educated consumers.

Before you can begin your market research, you must have a firm grasp of your agency or end-user requirements.

Having strong clarity about the desired product and/or service includes understanding:

- ❖ **Form:** What should it look like?
- ❖ **Fit:** Is there a specific size, for example?
- ❖ **Function:** What does this product/service do or need to provide? What result is needed?

The answers to these types of questions are the least amount of information any procurement official needs prior to beginning any sound market research. This information must be developed prior to market research for best efficiency. The above questions will assist in determining what the supply or service's salient characteristics are. "Salient" means *remarkable, notable, prominent, striking, conspicuous* – knowing salient characteristics prior to beginning market research aids greatly in the "refine search" feature of *GSA Advantage!*®.

Market research seeks to collect and analyze information about the capability of the market to fulfill a purchasing requirement. This includes identifying:

- ❖ True needs of the activity – this requires an analysis of the outcomes required, versus specifying what the government wants the contractor to do.
- ❖ Availability of the product or service in question
- ❖ Important tertiary concerns, including how the product/service can be acquired; how product can be distributed; and what types of support are offered (on-site, off-site, mail-in)

Notes

Non-Price Evaluation Factors. Factors in addition to price that can be considered in market research should vary depending on the acquisition situation. Price is an important factor in market analysis, but the lowest price is not always the best value. Non-price evaluation factors include those listed below.

Factors Affecting Best Value Determination (FAR 8.405)

- Training and customer support
- Technical qualifications
- Environmental and energy efficiency
- Useful life
- Maintenance availability
- Total cost of ownership
- Warranty
- Past performance and/or experience
- Service/supply characteristics
- Delivery/performance
- Administrative costs
- Transportation costs
- Price
- Socioeconomic status

Market Research Sources: eTools

- Search
- Review
- Place order
- View history


www.gsaadvantage.gov

GSA Advantage!® – An online shopping service through which ordering activities may place orders against the Schedules using the governmentwide purchase card.

There are several tools and resources you can use when conducting market research, such as the GSA eTools and other resources:

- ❖ GSA eLibrary www.gsaelibrary.gsa.gov
- ❖ GSA Advantage!® www.gsaadvantage.gov
- ❖ Green purchasing information www.gsa.gov/gogreen
- ❖ PPIRS www.ppirs.gov
- ❖ Requests for Information (RFIs) on eBuy www.ebuy.gsa.gov



MAS DESK REFERENCE

For more Sustainability, refer to the *MAS Desk Reference: Section 11 eTools*.

Notes

GSA Advantage!® is an online catalog, information, and ordering system. The system gives authorized customers the ability to search, identify, compare, and order Schedule items that offer the best value to the government. By using **GSA Advantage!**® the user can search through the millions of supplies and services that are available under Schedule contracts and it is the first stop for commodity purchases. When beginning any commodity procurement research, the first market research tool suggested is a simple search for the product under **GSA Advantage!**®.



NUTS AND BOLTS TIP

No registration is required to use **GSA Advantage!**® or eLibrary for market research.

Market Research Sources: eTools

- Schedules listings
- Descriptions
- Clauses
- Contractor details
- EPLS status



www.gsaelibrary.gsa.gov

eLibrary – The official online source for complete GSA and VA Schedules information – a great market research tool.

GSA eLibrary provides access to information on millions of supplies and services. It is the official online source for complete GSA and VA Schedules contract award information. GSA eLibrary is a centralized source for researching Schedules that include:

- ❖ Basic ordering guidelines
- ❖ Complete Schedule listings
- ❖ Powerful search engine
- ❖ Vendor socioeconomic status

[illegible]

Market Research Sources: eTools

- 
- www.ebuy.gsa.gov

eBuy, GSA's electronic Request for Quotation (RFQ) system, streamlines the buying process with point and click functionality by allowing RFQs and RFIs (Request for Information) to be exchanged between federal buyers and Schedule contractors. Use of eBuy increases competition in federal contracting through its transparency feature – allowing maximum exposure to all vendors within a specific SIN. eBuy greatly supports civilian and DOD goals of increased competition in contracting.

Issuing an RFQ via eBuy allows ordering activities to post requirements, obtain quotes, and award orders electronically.

Lesson 3: Placing Orders

Learning Objectives

- ## Lesson Topics

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Notes

[illegible]

- Seek further competition outside of the MAS program
- Synopsise the requirement (unless Sole-Source greater than SAT with an LSJ – See 8.404(g))



If an agency issues a Schedule order using FAR Part 15 terminology and procedures, protest review authorities, such as the GAO and the courts, may sustain a protest against the order using FAR Part 15 procedures.



NUTS AND BOLTS TIP

Competition in Contracting Act (CICA)

In accordance with FAR 6.102(d)(3), use of the Federal Supply Schedules (FSS) Program is considered a “competitive procedure” under CICA when the FSS ordering procedures are followed – i.e., the Ordering Procedures for Supplies, and Services Not Requiring a Statement of Work (FAR 8.405-1) or the Ordering Procedures for Services Requiring a Statement of Work (FAR 9.405-2).

The Competition in Contracting Act (CICA) was passed into law in 1984 as a foundation for the Federal Acquisition Regulation (FAR) and to foster competition and reduce costs. The theory was that more competition for procurements would reduce costs and allow more small businesses to win federal government contracts. Under CICA all procurements must be competed as full and open (there are some exceptions found in FAR Part 6 such as FSS) so any qualified company can submit an offer. Additionally, CICA requires that all procurements with an estimated value exceeding \$25,000 be advertised for at least 15 days **before** issuance of a solicitation (FAR 5.203 (a)), on FedBizOpps (FBO). CICA also requires minimum response times (30 to 45 days) for receipt of bids or proposals from the date of issuance of a solicitation (FAR 5.203 (c), (d) & (e)).

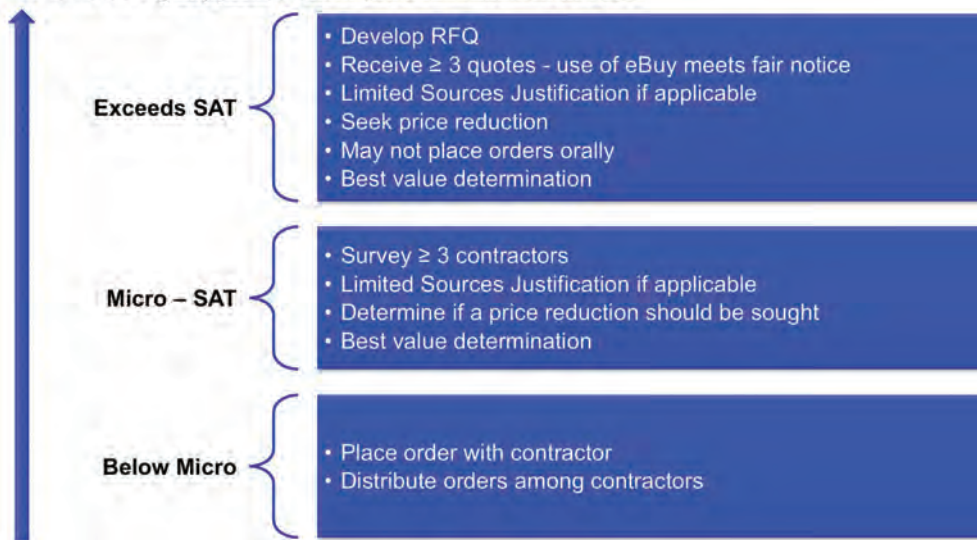
CICA also requires each agency and procuring activity to establish a “competition advocate” within its organization to review and challenge any procurement that limits competition. At the Congressional level, a new Senate subcommittee was established to oversee implementation of CICA and encourage competition for government contracts. CICA also amended the protest procedures that are contained in FAR Part 33. Specifically, it established that a protest before contract award to the Government Accountability Office (GAO) will cause the award to be suspended until GAO rules on the protest. It also established a deadline of ninety (90) working days for GAO to issue a ruling or forty-five (45) calendar days if the express option is requested by either party.

Although CICA is still the foundation for competitive requirements, law and regulation make certain exceptions to CICA’s competitive mandates and establish other competitive requirements. “Full and open competition” is not the only competitive mandate. For example, CICA does not apply to:

- Orders placed under single-award requirement contracts or definite-quantity contracts
- Orders placed under single-award indefinite-quantity contracts that were entered into pursuant to the provisions of CICA
- Orders placed against a single-award task order and delivery order contracts entered into pursuant to FAR Subpart 16.5 (*continued*)



Notes

[illegible]

According to FAR 8.405-1, when acquiring fixed-price services or supplies through GSA Schedules, an SOW is not required when the dollar value of the order or BPA:

- Lesson 3: Placing Orders | 67

[illegible]

- ❖ **Exceeds the micro-purchase threshold**, but not the simplified acquisition threshold. You should obtain at least three (3) quotes (always documenting your contract file and select the best value quote).
- ❖ Survey at least three Schedule contractors, considering price and other identified best value factors.
- ❖ Consider ordering from contractors who help you meet your agency's socioeconomic goals.
- ❖ Use an RFQ only if it is the most efficient method for gathering the information needed to evaluate solutions available under GSA Schedules. When using an RFQ, the Schedule user must provide the RFQ, including the evaluation criteria, to any contractor under the appropriate Schedule who requests a copy.
- ❖ The Schedule user should seek a price reduction when:
 - ❖ Market research reveals that the supply or service is available elsewhere at prices lower than those available from Schedule contractors.
 - ❖ The Schedule contractor has been or will be selected to provide recurring requirements and the size of the recurring orders appears to merit a price reduction.
 - ❖ Market research identifies other information indicating that a price reduction is appropriate.
- ❖ **Exceeds the Simplified Acquisition Threshold**, or when establishing a BPA. The ordering activity shall seek a price reduction, survey more than three contractors, and select the best value quote. If further price reductions are not offered, an order may still be placed. eBuy shall be used as one method to ensure at least three written quotations are received. If fewer than three are received, the Contracting Officer must document the file as to the actions taken to ensure competitive quotations, and what can be done in future acquisitions to enhance competition. Procedures also apply for DoD agencies when the value of the order exceeds the simplified acquisition threshold (\$150,000) and only one offer was received (DFARS 208.404 and 208.405–70). If fewer than 30 days for offer submission was allowed, the Contracting Officer must consider promoting competition by revising the requirements document (SOW) to eliminate any barriers to competition and by permitting more time for receipt of offers when fewer than 30 days was initially allowed. The Contracting Officer must either 1) solicit for an additional 30 days, or 2) request a waiver. If the Contracting Officer still receives only one offer, he/she must determine prices to be fair and reasonable through price/cost analysis and negotiations with the offeror. Remember, under the Schedules program you cannot compete outside of the program, so the Contracting Officer should consider whether or not there are any valid sources available or if sources have been exhausted through the use of eBuy.



Schedule contractors are not required to pass on to all GSA Schedule users a one-time spot price reduction provided to a single agency.

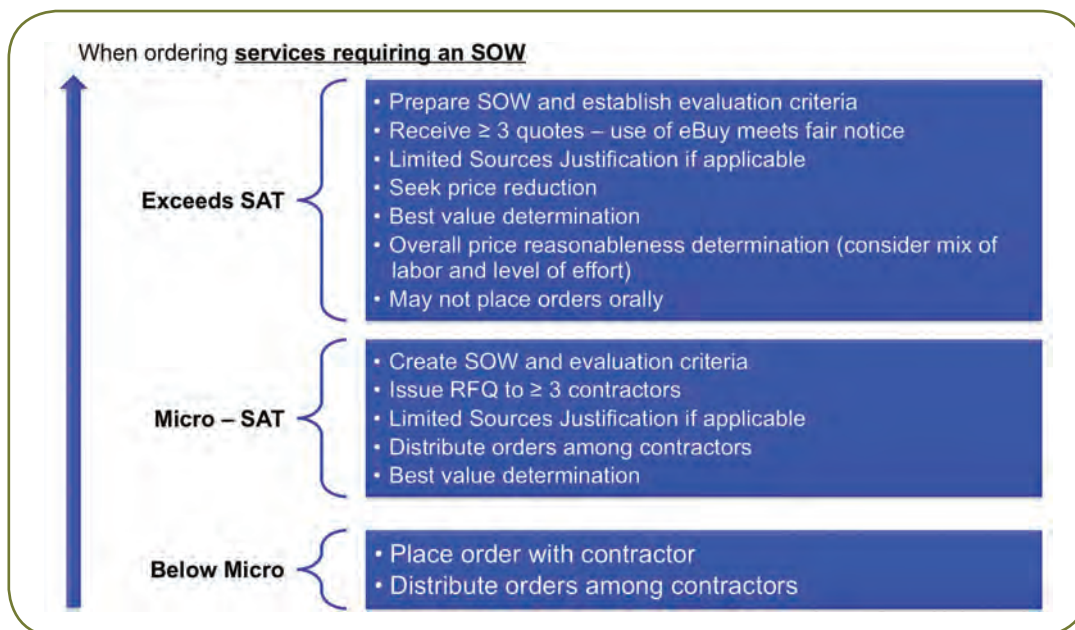


NUTS AND BOLTS TIP

FAR 9.405-1(b) **prohibits** ordering from any Schedule contractor who is debarred, suspended, or proposed for debarment unless the agency head makes a written determination of the compelling reasons for such action.

A Schedule user can review the contractor's information page in GSA eLibrary (www.gsaelibrary.gsa.gov) or the **Excluded Parties List System (EPLS)** (www.sam.gov) to determine whether the prospective contractor is debarred, suspended, or proposed for debarment.

Ordering Procedures - FAR 8.405-2



When is an SOW Required?

For services offered in Schedule contracts at hourly rates, Schedule users must create Requests for Quotations (RFQs) and include the SOW and evaluation criteria to Schedule contractors who offer services that will meet the agency's needs. The SOW and RFQ requirements differ by dollar value. The RFQ may be posted through eBuy.

If an order requires an SOW, the first step in the decision process is to review the quotes. The price quote review focuses on the quality of the vendor's capabilities or products, the proposed solution, the prices, and any other pre-determined evaluation criteria.

If an SOW is not required, the first step is to compare prices from appropriate Schedule contractors.

Notes

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After comparing prices and other factors, the ordering activity chooses the contractor who can provide the best value to the government.



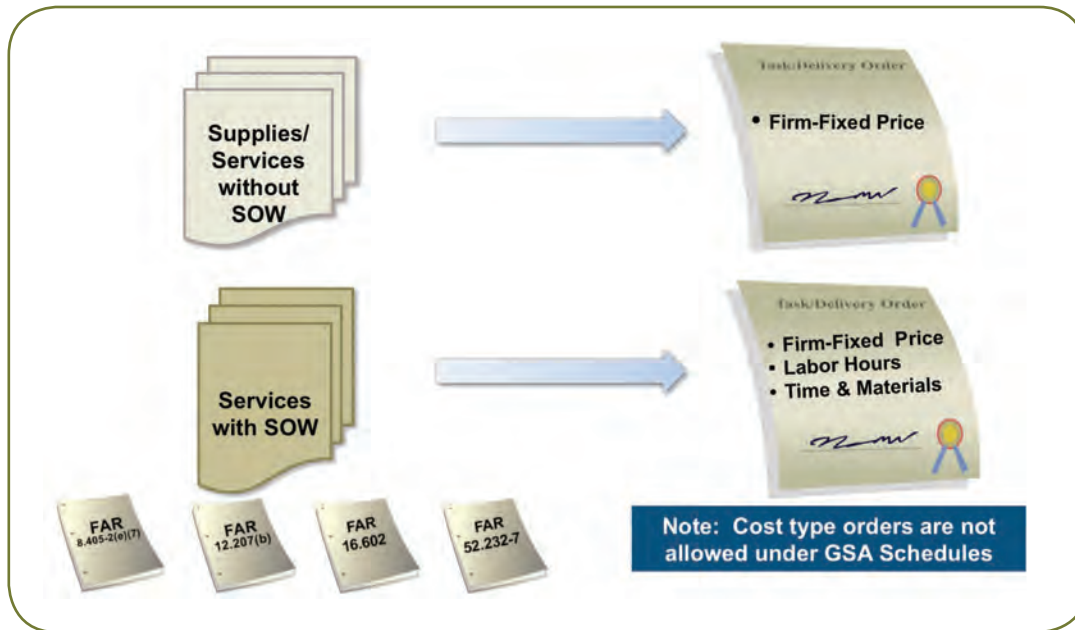
When buying services IAW FAR 8.405-2 the ordering activity is required to conduct an overall price reasonableness determination. This means that the proposed mix of labor and level of effort must be considered to ensure that the overall price provides the best value to the government.

*8.405-2(d) Evaluation. The ordering activity shall evaluate all responses received using the evaluation criteria provided to the Schedule contractors. **The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable.***

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Schedule Order Types

Notes



Pricing Arrangements

- ❖ Orders for supplies or services not requiring an SOW/PWS must be Firm Fixed Price (FFP). (See FAR 8.405-1(a).)
- ❖ Orders for services requiring an SOW/PWS may use one or a combination of the following pricing arrangements:
 - ❖ Firm Fixed Price (FFP)
 - ❖ Labor Hour (LH)
 - ❖ Time and Materials (T&M)

FFP is the preferred pricing structure and its use is required to the maximum extent practicable (See FAR 8.404(h)(2).) A T&M or LH type order can only be used when it's not possible at time of order placement to accurately define the extent or duration of the work or accurately estimate the cost. The Contracting Officer must execute a Determination & Finding (D&F) establishing that no other contract type is suitable and the order must contain a ceiling price that the contractor exceeds at their own risk.

For BPAs for hourly rate services, the ordering activity must develop an SOW/PWS for the requirements covered by the BPA. All orders under the BPA must specify a fixed price for the performance of the tasks identified in the SOW/PWS.



MAS DESK REFERENCE

For more information, refer to the *MAS Desk Reference: Section 3*.

Cautions for Level of Effort Task Orders

- Requires greater surveillance effort
- Works best when duration and extent of work cannot be estimated
- Requires additional approvals
- Includes ceiling price
- Must document file

LH and T&M orders are collectively known as Level of Effort (LOE) orders because the costs are based on hours worked, rather than on a set price. LH and T&M orders require more surveillance and control than FFP because ordering activities need to confirm that hours claimed match hours worked and that the percent of budget consumed matches the percent of work completed. Otherwise, costs can quickly exceed budget.

LOE orders are most useful when the duration and extent of the work cannot be adequately predicted or described during the acquisition process.

FAR 8.404(h)(3)(ii)(A) requires that the Contracting Officer execute a D&F for the contract that states that no other contract type is suitable. At a minimum, the D&F must:

- ❖ Include a description of the market research conducted
- ❖ Establish that it is not possible at the time of placing the contract or order to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of certainty
- ❖ Establish that the requirement has been structured to maximize the use of fixed-price orders (e.g., by limiting the value or length of the LH and T&M contract or order, or establishing fixed prices for portions of the requirement) on future acquisitions for the same or similar requirements
- ❖ Describe actions planned to maximize the use of fixed price on future acquisitions for the same requirements
- ❖ If the order is expected to last beyond three years, the D&F must be approved by the head of the contracting activity prior to the execution of the base period

To limit the government's exposure, LH/T&M orders must include a ceiling price. If the contractor exceeds the limit, the government is not liable for those costs. In essence, the ceiling price gives the contractor a reason to participate in monitoring costs accurately.

Prior to increasing the ceiling price, Contracting Officer's must:

- ❖ Perform an analysis of the price increase to determine the action is in the government's best interest
- ❖ Document the decision in the contract file
- ❖ Comply with FAR Part 8.405-6 requirements for justifying limited sources if the changes modifies the order scope

Bundling

Notes

- Bundling: Consolidating two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern
- Bundling provisions in FAR 19.202 apply to GSA Schedule orders

If acquisition planning for any order involves bundling, the Schedule user must comply with all FAR requirements for a bundled contract. Refer to FAR 7.105, 7.107, and agency guidelines related to bundling.

Bundling is consolidating two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a solicitation for a single order or BPA that is likely to be unsuitable for award to a small business concern due to the diversity, size, or specialized nature of the elements of the performance specified; the aggregate dollar value of the anticipated award; the geographical dispersion of the performance sites; or any combination of these factors.

“Separate smaller contract,” as used in this definition, means a contract/order/BPA that has been performed by one or more small business concerns, or that was suitable for award to one or more small business concerns. (See FAR 2.101(b).)

If a proposed acquisition is for a bundled requirement, FAR 19.202-1(e)(1)(iii) requires the ordering activity to provide a copy of the proposed acquisition package to the Small Business Administration (SBA) procurement center representative at least 30 days prior to the issuance of the solicitation (RFQ). The ordering activity must provide all information relative to the justification of contract bundling, including the acquisition plan or acquisition strategy. When the acquisition involves substantial bundling, the ordering activity must provide all of the following information to the SBA procurement center representative and the agency Office of Small Business Programs:

- ❖ Specific benefits anticipated to be derived from bundling
- ❖ Assessment of the specific impediments to participation by small business concerns as contractors, and actions designed to maximize small business participation as contractors, including provisions that encourage small business teaming
- ❖ Actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract, or order, that may be awarded to meet the requirements
- ❖ A specific determination that the anticipated benefits of the proposed bundled contract or order justify its use
- ❖ Alternative strategies that would reduce or minimize the scope of the bundling, and the rationale for not choosing those alternatives



NUTS AND BOLTS TIP

FAR 19.202-1(e)(1)(iii) is the only section of FAR Part 19 that applies to Schedules.

Options

- Options may be included on Schedule orders, provided that the options:
 - Are clearly stated in the requirement
 - Are evaluated as part of the ordering activity's best value determination
- Such options may be exercised on GSA Schedule contract orders, provided that:
 - Funds are available
 - The requirement covered by the option fulfills an existing government need
 - Prior to exercising an option, the ordering activity ensures that it is still in the government's best interest
 - The options do not extend beyond the period of the Schedule contract, including option year periods
- The length of the order and the risk to the ordering activity could be considered as part of the overall evaluation of best value

Options may be included on orders placed against Schedule contracts and BPAs, if the options are clearly stated in the requirement and are evaluated as part of the ordering activity's "best value" determination. Options may be exercised on Schedule contract orders, provided that funds are available and the requirement covered by the option fulfills an existing government need. Note that single-award BPAs cannot exceed a total of five years, i.e., one year with four, one-year options. Prior to exercising an option on a BPA, the Contracting Officer must conduct an annual review. If the BPA is a single-award BPA, then prior to option exercise, the annual review results (supporting exercise of the option) must be approved by the agency competition advocate.

Prior to exercising any option, under an order or a BPA, the ordering activity must ensure that it is still in the government's best interest, with price and other factors considered.

Schedule task orders may be established under the preceding conditions with options that extend beyond the end of the Schedule contract period. The order option must be exercised prior to the expiration of the Schedule contract, including its option periods. The length of the order and the risk to the ordering activity could be considered as part of the overall evaluation of best value.

Topic 2: Schedule Flexibilities

Notes

Contract Flexibilities



The MAS program offers a number of approaches to acquiring complete solutions. Contractor Teaming Arrangements (CTAs) enable two or more vendors to present a team approach to providing solutions, different from a prime contractor/subcontractor type of relationship. Also, it may be beneficial to an organization to award BPAs for recurring requirements, to make the ordering process easier and to take advantage of the potential to obtain reduced pricing.

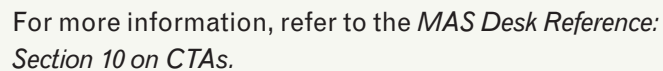
Contractor Team Arrangements (CTAs)



A GSA Schedule CTA is an arrangement between two or more MAS contractors to work together to meet government requirements. The CTA document is a written agreement between team members detailing the responsibilities of each team member.

[illegible]

When considering quotes from teamed contractors, it is considered a best practice for the ordering activity to review the teaming arrangement and include it in the quote file. Each team member's Schedule contract number should be cited on the order.



- Provides complete solution
- Encourages use of GSA Schedules
- Increases competition
- Levels the playing field for small businesses

- ❖ Satisfies the customer with a single solution
- ❖ Increases competitive edge
- ❖ Increases market share
- ❖ Increases visibility
- ❖ Focuses on core capabilities
- ❖ Obtains complementary capabilities
- ❖ Integrates different skills
- ❖ Offers additional opportunities with customers
- ❖ Builds direct relationships with customers
- ❖ Maximizes use of one or more Schedule solutions

- Notes

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- ❖ **Terms of the agreement.** The CTA document should:
 - ❖ Define the entire course of the project
 - ❖ Specify the responsibilities of each team member and any limitations on those responsibilities
 - ❖ Specify who receives and pays any team management fees
- ❖ **List of open market items.** The wide range of supplies and services quoted by GSA Schedule contractors should make the need for open market items minimal. Should open market items be required, all such items must be clearly identified as open market items, IAW FAR 8.402(f).
- ❖ **Delivery responsibility.** The CTA document should state whether the team lead or each team member is responsible for a particular part of the project, so that delivery responsibility is clearly established.
- ❖ **Confidential information.** The CTA document should identify any proprietary information and specify how such proprietary information and related rights will be managed.

Common Elements of CTA Agreements: Team Matters



Elements of a CTA Agreement regarding the teams includes:

- ❖ **Identification of parties.** The CTA should:
 - ❖ Always be documented in writing and signed by each participating GSA Schedule contractor
 - ❖ Identify each member of the Schedule CTA by name, address, GSA Schedule contract number, telephone number, and Point of Contact (POC)
 - ❖ Identify the team leader and POC

- ❖ If the team leader will change throughout the order performance period, the document should describe the reasons for such changes and how the team lead will be designated during order performance
- ❖ State the name and address of the ordering activity
- ❖ Identify the primary ordering activity POC for specific needs
- ❖ State that it is solely between the team members
- ❖ State that it cannot conflict with the terms and conditions of each team member's GSA Schedule contract
- ❖ **Specific team activities.** The CTA document should state the various types of activities that will be incorporated into the team arrangement and identify who is primarily responsible for each identified activity.
- ❖ **Responsibilities of team leader.** The CTA document should outline and specify the duties of the designated team leader at each phase of the project.
- ❖ **Responsibilities of team members.** The CTA document should specify and describe the duties of each team member.
- ❖ **Independent contractors.** The CTA document should state that all team members remain independent contractors, responsible for their own employees.
- ❖ **Replacement of team members.** The CTA document:
 - ❖ Should address the circumstances and procedures for replacement of team members, including the team leader
 - ❖ Should state that the team must obtain the approval of the ordering activity prior to replacing any team member after receipt of an order
- ❖ **Performance evaluation.** The CTA document should clarify under whose name the government should evaluate performance in the Contractor Performance Assessment Reporting System (CPARS) or whether each team member receives a separate CPAR. FAR 8.406-7 requires ordering activities to enter evaluations in PPIRS for all orders exceeding the Simplified Acquisition Threshold (SAT).

Notes

[illegible]

Common Elements of CTA Agreements: Financial Matters



Elements of a CTA regarding finance include:

- ❖ **Reporting of sales and Industrial Funding Fee (IFF) payment responsibility.**
 - ❖ The CTA document should:
 - ❖ Specify that each team member is responsible for reporting its own sales under its GSA Schedule contract and paying the related IFF to GSA.
 - ❖ State that each team member will track sales by contract number to meet contract pricing and IFF reporting requirements.
- ❖ **Invoicing and payment.** The CTA document should designate team responsibilities for invoicing and payment. While the team leader may submit an invoice on behalf of all team members, GSA recommends that payment be made to each team member. GSA recognizes, however, that there may be instances where it is advantageous to design the CTA document so that payment is made to the team leader who pays each team member. Under such circumstances, the CTA document should clearly indicate that all team members agree to this method of payment. The CTA document should acknowledge that the team members, without any involvement by the government, would resolve any dispute involving the distribution of payment between the team leader and the team members.
- ❖ **Warranties.** The CTA document should designate team warranty responsibilities, such as:
 - ❖ Whom the ordering activity should contact regarding warranty issues
 - ❖ What documents will be required for a warranty claim
 - ❖ Who will correct deficiencies covered by warranty
 - ❖ How will warranty compensation be managed within the team

Notes

- [illegible]

```
graph TD; TL[Team Lead] --> TM1[Team Member 1]; TL --> TM2[Team Member 2]; TL --> S1((Sub)); TL --> S2((Sub)); TM1 --> S3((Sub)); TM2 --> S4((Sub)); S1 --- S1L[Sub (has Schedule)];
```

The task order or BPA is issued to the Schedule Contractor Team as a whole, and lists all Schedule contractor numbers on it. In some cases, depending on the agreement, task orders can be issued directly to each team member. If multiple-award BPAs are awarded to multiple teams, then the teams must compete for the task orders.

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Key Differences between CTA and Subcontractor Arrangements

MAS DESK REFERENCE

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[illegible]

- A BPA is a simplified method of filling anticipated repetitive needs for supplies or services
- Establishes terms applicable to future orders
- Considered a competitive procedure
- Does not obligate funds
- No min/max

Schedule BPAs generally should not exceed five (5) years in duration, but may do so to meet program requirements.

IAW FAR 6.102(d)(3), use of the MAS BPA is considered a **competitive procedure** under the Competition in Contracting Act (CICA) when the GSA Schedule ordering procedures are followed.

GSA has established that the prices contained within the contractor's Schedule price list are fair and reasonable. When establishing one or more BPAs, ordering activities should request discounted pricing; the Schedule holders are not required to discount their prices, however. When placing an order against a BPA, the ordering activity is responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered, and for making a determination that the total price is fair and reasonable.

The same ordering procedures outlined in FAR 8.405 apply to the establishment of a GSA Schedule BPA (FAR 8.405-3(a)(2)). Based upon the potential volume of orders under the BPA, ordering activities may be able to obtain greater discounts, regardless of the size of individual orders.

[illegible]

- ❖ Estimated quantities/amounts have been exceeded and additional price reductions can be obtained

- MAS BPAs are issued against established MAS contracts
- Terms and conditions for the BPA, including contract type and clauses, must comply with the underlying MAS contract
- MAS BPAs are based on prices already subjected to competition and determined to be fair and reasonable by GSA
- MAS BPAs are subject to FAR Subpart 8.4 procedures, not Part 13

Most Schedule BPAs begin with general information such as the following:

- ❖ A statement that the document is a Schedule BPA
- ❖ A statement that the Schedule BPA is issued under authority of the BPA clause in the applicable GSA Schedule contract(s) including the contract number(s)
- ❖ Identification of the organization issuing the Schedule BPA
- ❖ Identification of the contractor

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BPAs help consolidate agency needs in many ways. Here are two examples:

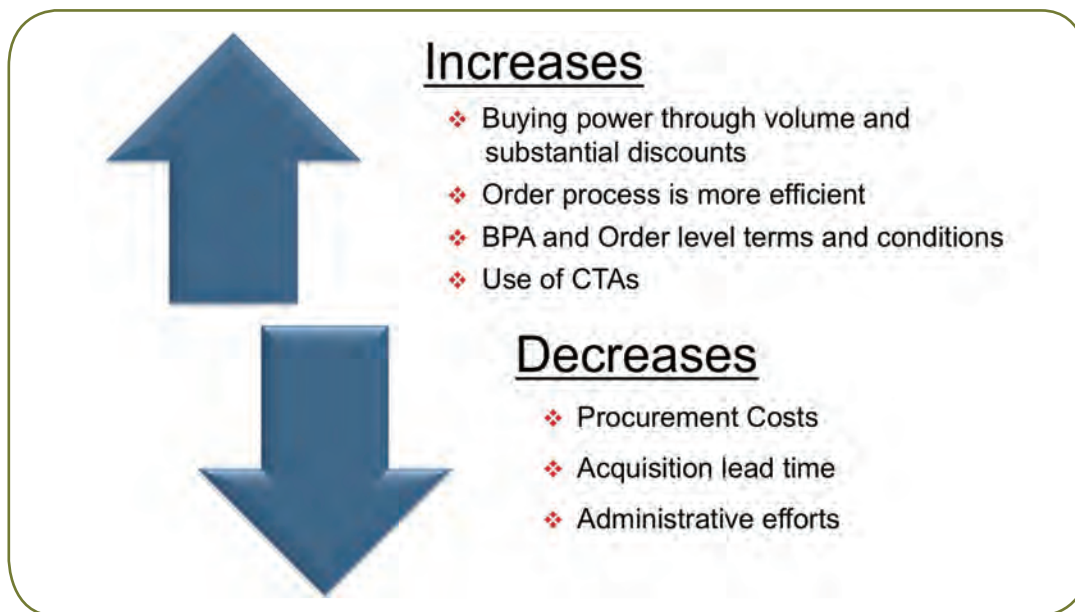
- ❖ A BPA can be set up for field offices across the nation, thus allowing them to participate in an agency-wide BPA and place orders directly with GSA Schedule contractors. In doing so, the entire agency reaps the benefits of additional discounts negotiated into the BPA.
- ❖ A multi-agency BPA can be established if the BPA identifies the participating agencies and their estimated requirements at the time the BPA is established.

BPAs enable ordering activities to prepare for anticipated purchases and become more proactive in their purchasing. Because an ordering activity is not actually buying products or services when it establishes the BPA, funding does not have to be immediately available when the BPA is established unless a minimum dollar value is guaranteed in the BPA (this is not a requirement). When the funding becomes available, and the need becomes immediate, the ordering activity can then make the purchase by simply placing a delivery or task order.

Schedule BPAs simplify the acquisition process for ordering activities. In addition to not performing a “fair and reasonable” price analysis (except for labor hours and mix on hourly rate contracts), ordering activities do not need to synopsise requirements for purchase against a BPA.

Note: Appendix B “Sample Blanket Purchase Agreement Format” contains more in depth information on BPAs.

Benefits of MAS BPA



Schedule BPAs offer many benefits. Most importantly, they help ordering activities anticipate and prepare for recurring purchasing needs, and they have fewer acquisition requirements than standard FAR contracts or traditional BPAs.

Notes

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BPAs enable ordering activities to prepare for anticipated purchases and become more proactive in their purchasing. Because an ordering activity is not actually buying products or services when it establishes the BPA, funding does not have to be immediately available when the BPA is established unless a minimum dollar value is guaranteed in the BPA (this is not a requirement). When the funding becomes available, and the need becomes immediate, the ordering activity can then make the purchase by simply placing a delivery or task order.

MAS DESK REFERENCE
For more information, refer to the *MAS Desk Reference: Section 9 on BPAs*.

- Opportunity to negotiate improved discounts
- Satisfy recurring requirements
- Leverage agency requirements
- Quicker turnaround on orders
- Funding isn't required until a BPA order is initiated
- May use small business set-aside procedures in BPA awards to help meet socioeconomic goals

- ❖ It gives the ordering activity flexibility in acquiring the exact services, levels of effort, and periods of performance that it needs for acquisitions without having to go through a separate acquisition process for each purchase
- ❖ It saves administrative time and money through consolidated payment and summary invoicing, thereby creating processing efficiencies

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MAS DESK REFERENCE

For more information, refer to the *MAS Desk Reference: Section 9 on BPAs*.

Multiple-award BPAs

- All purchases are competed among a prequalified pool of contractors
- Duration generally does not exceed five years, but may do so to meet program requirements
- For orders over the micro-purchase threshold and for hourly rate services, RFQs must be sent to all BPA holders
- Benefits:
 - Simplified ordering process
 - Improved pricing and terms
 - Ability to search and negotiate for best value

Multiple-award BPAs are established with more than one Schedule contractor. They are appropriate when the ordering activity determines that more than one BPA is needed to meet its needs, or when the requirement is less defined. The number of BPAs to be established is within the discretion of the ordering activity and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s).

For orders exceeding the micro-purchase, the ordering activity must forward the requirement, or SOW/PWS/SOO, and the evaluation criteria to an appropriate additional number of Schedule BPA holders IAW the BPA ordering procedures.

The ordering activity must evaluate the responses received, make a “Best Value” determination and place the order with the Schedule BPA holder that represents the best value.

If the BPA is for hourly rate services, the ordering activity must develop an SOW/PWS/SOO for requirements covered by the BPA. All orders under the BPA should specify a price for the performance of the tasks identified in the requirements document.

BPA Documentation Requirements

Notes

Minimum BPA Documentation Requirements – (8.405-3(a)(7))	
Schedule contracts considered, noting the awardee	✓
Description of the supply or service purchased	✓
Price	✓
Limited Source Justification, if applicable (See 8.405-6)	✓
Justification for Single-Award BPA, if applicable	✓
Determination for a single-award BPA exceeding \$103 million, if applicable	✓
Documentation supporting the decision for multiple or single award BPAs	✓
Evidence of compliance with competitive procedures - see 8.405-3(b)	✓
Basis for the award decision. This should include the evaluation methodology used in selecting the contractor, the rationale for any tradeoffs in making the selection, and a price reasonableness determination for services requiring a statement of work	✓

When establishing MAS BPAs, the ordering activity must document:

- ❖ The Schedule contracts considered, noting the contractors with which BPAs have been established
- ❖ A description of the requirements (e.g., estimated quantities, work to be performed)
- ❖ The results of price evaluation and overall price reasonableness for services when applicable
- ❖ The estimated value
- ❖ If applicable, the circumstances and rationale for restricting consideration of Schedule contractors to fewer than required in the Schedule ordering procedures
- ❖ The evaluation methodology used in selecting the contractor to receive the BPA(s)
- ❖ The rationale for any trade-offs in making the selection
- ❖ The fair and reasonable price determination required by FAR 8.405-2(d) for BPAs with hourly rate services
- ❖ If applicable, the rationale for placing other than Firm Fixed Price (FFP) or performance-based orders
- ❖ The results of the annual review must be documented

How Many BPAs Should I Award?

- Factors to consider:
 - Scope and complexity
 - Benefits of ongoing competition
 - Administrative costs
 - Technical qualifications
- Document rationale in acquisition plan or file

FAR Subpart 8.405-3 clarifies the conditions under which BPAs may be established with one or more Schedule contractors. The number of BPAs to be established is at the discretion of the ordering activity establishing the BPAs and should utilize a strategy that is expected to maximize the effectiveness of the BPA(s). Schedule BPAs under the GSA Schedules program are established using the ordering procedures listed in FAR Subpart 8.405-3.

Before an ordering activity can issue a task order against a Schedule BPA, it must first establish the BPA itself. The BPA has multiple documentation requirements which provide a permanent record of the process used in evaluating Schedule solutions and placing the Schedule order or BPA. The documentation should be brief but detailed enough to demonstrate that the Schedule user followed the requirements of the FAR, the Schedule contract, and good business practices. The Schedule user should consider documentation requirements and recommendations for various requirements, acquisition dollar levels, and agency requirements.

Schedule BPAs shall address the frequency of ordering, invoicing, discounts, requirements (e.g., estimated quantities, work to be performed), delivery locations, and time. When establishing multiple Schedule BPAs, the ordering activity shall also specify **the procedures for placing orders under the Schedule BPAs (e.g., FAR Subpart 8.405-3(c)(2))**.

Notes

- Set-Asides may be conducted at the BPA or Order Level
- Must establish ordering procedures at the BPA level
 - Do not conduct order level set-asides without prior notice

Ordering activity Contracting Officers may, at their discretion, both set aside awards for orders and BPAs for any of the types of small business concerns identified in 19.000(a)(3). This change is reflected in FAR Subpart 8.405-5.

Ordering activities may consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one:

- ❖ Small business
- ❖ Veteran-owned small business
- ❖ Service disabled veteran-owned small business
- ❖ HUBZone small business
- ❖ Women-owned small business, or
- ❖ Small disadvantaged business Schedule contractor(s)

Ordering activities should give preference to small businesses for orders over the micro-purchase threshold if two or more items at the same delivered price as a large business will satisfy the requirement.

Ordering activities can take credit for awarding orders to small business firms when purchases are reported in the Federal Procurement Data System (FPDS). If the order is placed with multiple contractors using a Contractor Team Arrangement (CTA), report the BPA order in FPDS using identifying data of the contractor doing the preponderance of work. For purposes of reporting an order placed with a small business Schedule contractor, an ordering agency may take credit only if the awardee meets a size standard that corresponds to the work performed.

Notes

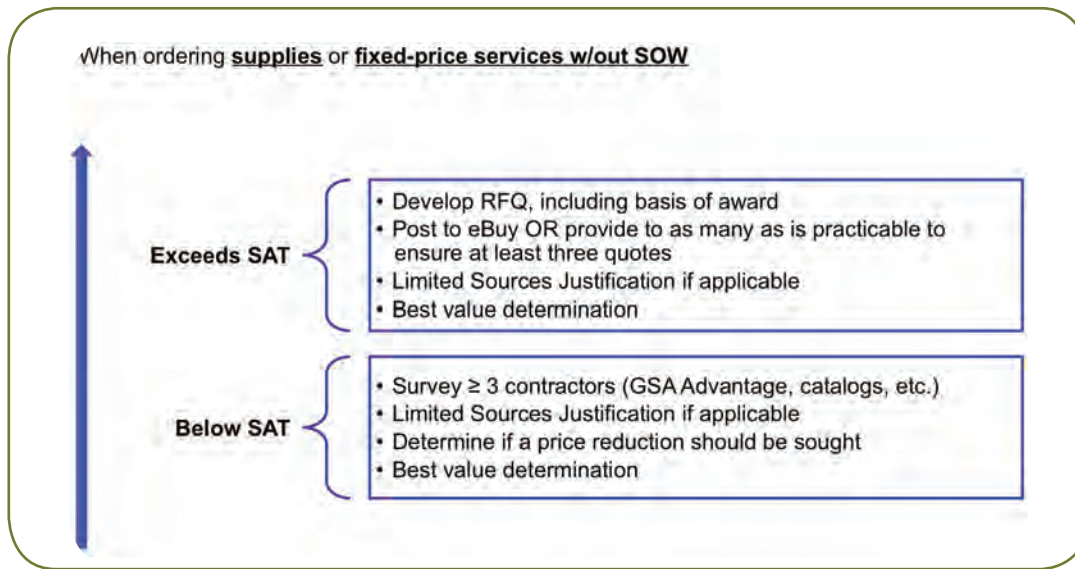
When setting aside orders against BPAs, we have the following guidance for ordering activities:

- ❖ Existing multiple-award BPAs, or BPAs that were established without prior notification to prospective BPA holders that orders may be set aside under the BPAs should not use set-aside orders. Procedures for placing orders against BPAs come from FAR Subpart 8.405-3(c) and require that the ordering activity give “fair opportunity” to all BPA holders. While Section 1331 provided set-aside authority “notwithstanding fair opportunity requirements,” it would be inappropriate to restrict the competition on existing BPAs or on any non-set-aside BPAs where use of Section 1331 authority at the order level was not specified, and prospective BPA holders were not notified prior to the BPAs being established.
 - ❖ Newly-established multiple-award BPAs may use order set-asides where:
 - a) The BPA RFQ clearly states that the ordering activity may determine to set aside task or delivery orders as described in the ordering procedures contained in the BPA’s Request for Quotations and in accordance with FAR Subpart 8.405-3(c)(2); and
 - b) There is sufficient competition among BPA holders such that the resulting task or delivery orders are in full compliance with the above cited regulatory requirements. The easiest way to comply with these requirements is to establish a number of BPAs, which is more than adequate to cover the breadth and depth of expected task order delivery orders and at least three sources will be viable competitors for each task or delivery order.
- OR
- c) The ordering activity has properly documented restricting consideration in accordance with the requirements of FAR Subpart 8.405-6 and generated a Limited Sources Justification.

Socioeconomic status can also be considered when identifying firms for competition and can even be one of the evaluation criteria if a set-aside is not conducted. So, if ordering activities elect not to conduct a set-aside but still want to promote small businesses, they may choose to include agency socioeconomic objectives as one of its source selection factors. This factor, when added to price and other factors, may make the quote of a non-small business not the best value, when establishing BPAs or ordering from a BPA.

MAS BPA Establishment Procedures — FAR Subpart 8.405-3(b)(1)

Notes



The procedures for establishing BPAs differ, based on whether an SOW is required or not. An SOW is not required when establishing BPAs for supplies or for fixed-price services.

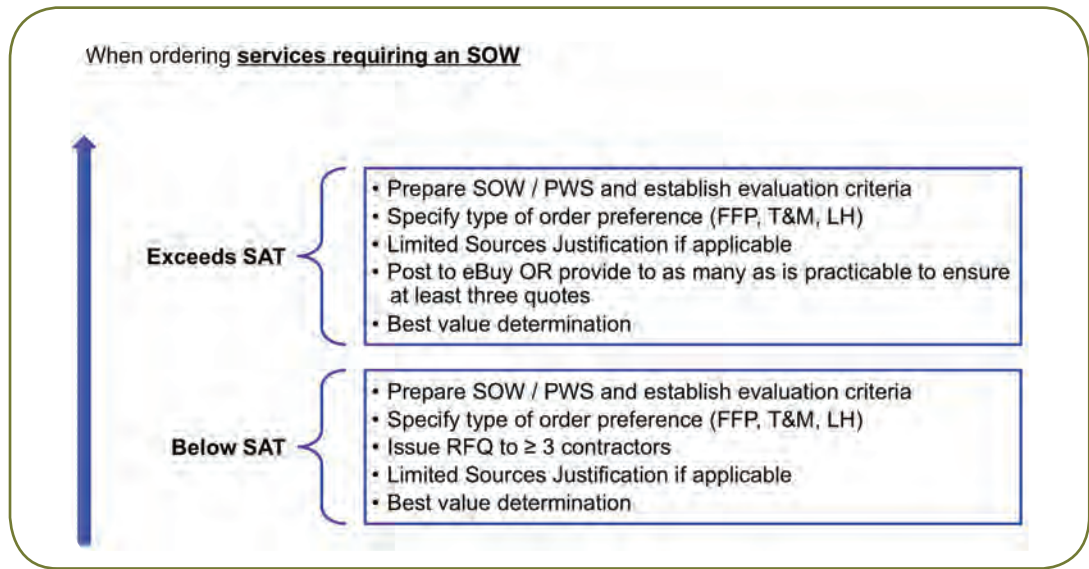
When the anticipated aggregate value of the BPA is below the SAT, follow these procedures:

- ❖ Survey three or more contractors through GSA Advantage!, catalogs, etc.
- ❖ Develop a Limited Sources Justification (LSJ) to justify restricting competition, if applicable. We will discuss when an LSJ is required later in this topic.
- ❖ Determine if a price reduction should be sought.
- ❖ Make a best value determination to select as many contractors as required to meet your ordering objectives and acquisition strategy.

When the aggregate BPA value exceeds the SAT, use these procedures:

- ❖ Develop a Request for Quotation (RFQ). This should include the basis of award.
- ❖ Post the RFQ to eBuy or provide it to as many contractors as practical to ensure at least three quotes are received.
- ❖ Develop a Limited Sources Justification, if applicable.
- ❖ Make a best value determination to select as many contractors as required to meet your ordering objectives and acquisition strategy.

MAS BPA Establishment Procedures — FAR Subpart 8.405-3(b)(2)



An SOW is required when establishing BPAs for services that are not fixed-price.

When the anticipated aggregate value of the BPA is below the SAT, follow these procedures:

- ❖ Prepare an SOW or Performance Work Statement (PWS). This should include evaluation criteria.
- ❖ Specify the type of preference for orders made under the BPA (Firm Fixed-Price, Time and Materials, Labor-Hour).
- ❖ Provide the RFQ to three or more contractors.
- ❖ Develop a Limited Sources Justification, if applicable.
- ❖ Make a best value determination to select as many contractors as required to meet your ordering objectives and acquisition strategy.

When the aggregate value of the BPA exceeds the SAT, use these procedures:

- ❖ Prepare an SOW or Performance Work Statement (PWS). This should include evaluation criteria.
- ❖ Specify the type of preference for orders made under the BPA (Firm Fixed-Price, Time and Materials, Labor-Hour).
- ❖ Develop a Limited Sources Justification, if applicable.
- ❖ Post the RFQ to eBuy, or provide it to as many contractors as practical to ensure at least three quotes are received.
- ❖ Make a best value determination to select as many contractors as required to meet your ordering objectives and acquisition strategy.

- Estimated requirements
- Delivery/performance locations

- ❖ The BPA should include a statement that the government is not obligated to make any purchases using the Schedule BPA. This is commonly done in one of two ways:
 - ❖ A statement such as “This Schedule BPA does not obligate any funds. The government is obligated only to the extent of authorized orders actually made under the BPA”; or
 - ❖ A statement such as “The government estimates, but does not guarantee, that the volume of purchases using this Schedule BPA will be \$_____. This BPA does not obligate any funds. The government is obligated only to the extent of authorized orders actually made under the BPA.”
- ❖ Ordering activities may include a guaranteed minimum purchase amount in the BPA as a way to get better pricing from the contractor. If the BPA contains such a guarantee, then the ordering activity must dedicate funds to cover the guaranteed minimum.

If Schedule BPA services will be performed at one or more known locations, the BPA should identify those locations as clearly as practicable. At a minimum, the Schedule BPA should identify the geographic area of BPA performance (e.g., Greene County, OH).

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- ❖ “A summary invoice must be submitted at least monthly or upon expiration of the Schedule BPA, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets examined therein and stating their total dollar value. It must be supported by receipt copies of the delivery tickets.”
- ❖ “An itemized invoice must be submitted at least monthly or upon expiration of the BPA, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received.”
- ❖ When billing procedures provide for an individual invoice for each delivery, these invoices must be accumulated, provided that:
 - ❖ A consolidated payment will be made for each specified period
 - ❖ The period of any discounts will commence on the final date of the billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever date occurs later

- Evaluation methodology
- Trade-off rationale
- Price reasonableness
- Past Performance
- Limited sources rationale
- T&M / LH rationale

Trade-off Rationale. FAR guidance instructs us to make best value source selections to ensure the government gets the best solution at the best price. If there are any cost or technical trade-off factors, the ordering agency must identify these factors in the RFQ to ensure the vendors know what the government thinks is important.

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Past Performance. When considering a firm for a BPA award, the Contracting Officer can review findings of other Contracting Officers within the agency to see if any performance problems have been noted. This is a form of a past performance evaluation.

Limited Sources Rationale. If the requirement is for a brand name or equal product, or simply a brand name requirement, the ordering agency will be required to develop a limited sources justification. The information that must be part of this justification must explain why only a certain product will be acceptable. Within 14 days after BPA award, the justification must be posted on eBuy and on FedBizOpps, depending on the potential dollar amount of the BPA. The justification, or a link to it, must remain active for 30 days.

T&M / LH Rationale. FAR Part 12 contemplates the award of fixed-price contracts and orders, though there may be times when the exact number of hours required for each different type of labor category is unknown. In the event that a Time & Materials (T&M) or Labor Hour (LH) BPA is to be awarded, the BPA file will need to be documented to show why the hourly basis is required.

BPA Ordering Procedures – FAR 8.405-3

Procedure for Ordering from Multiple Award Schedule BPAs (FAR 8.405-3(c))



Procedures for placing orders. The Schedule BPA should identify the people authorized to order using the BPA by position title or individual name and organizational component.

If the ordering activity establishes one Schedule BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.

Notes

Notes

If the ordering activity establishes multiple Schedule BPAs, which is preferable in the FAR, each BPA should include procedures for providing BPA holders a fair opportunity to provide the services and/or supplies identified in the BPA. The BPA should specify the ordering procedures at various dollar thresholds, as discussed below.

When ordering from Schedule BPAs, ordering activities must conform to the following requirements:

- ❖ **Single-award BPA.** If the ordering activity establishes one BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises. A single-award BPA might be appropriate if there is only one qualified source, or if it is in the public interest in exceptional circumstances.
- ❖ **Multiple-award BPAs.** If the ordering activity establishes multiple BPAs, before placing an order, the ordering activity must:
 - ❖ If under the micro-purchase threshold, an award can be made to any BPA holder, so long as orders are fairly spread when needs arise.
 - ❖ If over the micro-purchase threshold but under the SAT, each BPA holder must be given a fair opportunity to compete for the order, but it is not necessary to individually contact each company for each order. If the Contracting Officer chooses not to contact each BPA holder, the file must be documented as to the rationale.
 - ❖ For orders over the SAT, the ordering activity must send an RFQ to each BPA holder, affording them the opportunity to submit a quote, and fairly evaluate all responses received, making a best value award in accordance with the specified selection procedures
- ❖ **BPAs for hourly rate services.** If the BPA is for hourly rate services, the ordering activity must develop an SOW/PWS/SOO for requirements covered by the BPA. All orders under the BPA shall specify a price for the performance of the tasks identified in the SOW/PWS/SOO.

The procedures for placing Schedule BPA orders must conform to applicable FAR, agency, and ordering activity requirements.

Notes

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Other Direct Costs Categories

- When putting together the acquisition plan, ordering activities should also consider how much and what types of Other Direct Costs (ODCs) are going to be needed to meet the requirement.

- ❖ **Ancillary Supplies and Services** are commercial items, which complement the main purchase, are within the scope of the contract and are already on the Schedule contract. The items are included in the MAS contract and task order and cannot be ordered separately from other services on the same contract. Because the items are already on the MAS contract, the prices are considered fair and reasonable. An example of ancillary items is an order for training that might specify the development of course materials and the teaching of classes. The cost of printing the participant guides is an additional service that is available under the Schedule contract, but is only available when purchasing the training services.
- ❖ **Travel Reimbursement Items** are costs for transportation, lodging, and per diem that are associated with the performance of a task order. Ordering activities can reimburse contractors for travel related costs as long as the travelers follow the appropriate federal, agency, and project travel regulations, such as the Federal Travel Regulation (FTR) and the Joint Travel Regulation (JTR).

- ❖ **Open Market Items**, also known as “non-Schedule items” are “incidental” costs for commercial items that are not awarded under an MAS contract but which also support an order. Because the items are not on the Schedule contract, ordering activities cannot assume that the costs are fair and reasonable. Therefore, ordering activities must purchase these items IAW all applicable acquisition regulations. The ordering officer must determine that the quoted prices for these items are fair and reasonable and within scope.

Adding Non-Schedule Items to a Schedule Order

FAR 8.402(f) states: For administrative convenience may add items not on the Federal Supply Schedule (open market items) to a Federal Supply Schedule BPA or an individual task or delivery order only if—

- All applicable acquisition regulations pertaining to the purchase of the items not on Schedule have been followed:
 - Publicizing (Part 5)
 - Competition Requirements (Part 6)
 - Acquisition of Commercial Items (Part 12)
 - Contracting methods (Parts 13, 14, and 15)
 - Small Business Programs (Part 19)
- The ordering activity CO has determined the price for the items not on the Schedule is fair and reasonable.
- The items are clearly labeled on the order as items not on the Federal Supply Schedule.
- All clauses applicable to items not on the Federal Supply Schedule are included in the order and reasonable and within scope

Open market items are known as incidental items, non-contract items, non-Schedule items, and items not on a GSA Schedule contract. While a myriad of products are available through GSA Schedules, an ordering activity may need an item that is not on a Schedule. In those cases, non-Schedule items may be purchased in conjunction with Schedule products or services.

For administrative convenience, the ordering activity may add items not on Schedule to a Schedule BPA or individual task or delivery order if:

1. All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule (FSS) have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
2. The ordering activity Contracting Officer has determined the price for the items not on the FSS is fair and reasonable;

- 3. The items are clearly labeled on the order as items not on the FSS; and
- 4. All clauses applicable to items not on the FSS are included in the order.
(See FAR 8.402(f))

Possible Schedule Alternatives to Open Market Items

- Modify Schedule Contract
- Contractor Team Arrangement (CTA)
- Government-Furnished Property (GFP)

Ordering activities have three options for avoiding using open market items:

- ❖ The Schedule contract can be modified by the GSA Contracting Officer. Currently, there are five types of modification requests:
 - ❖ Additions
 - ❖ Deletions
 - ❖ Administrative Changes
 - ❖ Pricing Changes
 - ❖ Technical Changes
- ❖ Contractor Team Arrangements (CTAs) bring together multiple Schedule contractors as a team to provide a total solution for the requirement. For instance, one team member might be on a Schedule to provide installation and consulting services for a type of equipment. Another Schedule contractor might be on a different Schedule to provide the equipment but not the installation. By teaming, a single solution that avoids the need to search the open market benefits contractors and the government alike. RFQs can state the ordering activity's preference to use a team solution.
- ❖ Government-Furnished Property (GFP)/Government-Furnished Equipment (GFE) includes facilities, equipment, material, supplies, or other services provided by the government for use by all prospective service providers in the solicitation. Costs for GFP included in a solicitation are considered common costs. Replacement costs, insurance, maintenance and repair costs for GFP may or may not be government-furnished, depending on the provisions in the solicitation.



Knowledge Check 1

Notes

You are a Contracting Officer. One of your organizations has told you they want to acquire technical support services using a GSA Schedule. What are the pertinent acquisition considerations to determine if a GSA Schedule contract is the best solution?

Answer:



Knowledge Check 2

You are a Contracting Officer. An acquisition team wants to use a Schedule contractor for the ongoing purchase of IT equipment. You suggest the organization consider a Schedule BPA. List the benefits of using a Schedule BPA.

Answer:

Lesson 4: MAS Post-Award Activities

Learning Objectives

- ❖ Recognize the procedures for notifying unsuccessful offerors, to include responding to protests

- ❖ Identify activities associated with order administration
- ❖ Identify how administrative tasks differ for MAS BPAs
- ❖ Contrast the responsibilities of the contractor and ordering activity during task/delivery order administration
- ❖ Identify the benefits of past performance reporting
- ❖ Identify activities associated with order termination

- ❖ Topic 1: Notification and Kick-off
- ❖ Topic 2: Order Administration Functions

- ❖ Topic 3: Order Termination
- ❖ Topic 4: Order Completion and Required Actions

Notes

- Notify unsuccessful quoters after award
- Notification content, may include:
 - Number of Schedule contractors solicited
 - Number of quotes received
 - Name and address of each Schedule contractor
 - The total price of each order
 - General reason why quoter was not selected
- eBuy – automatically send e-mail notice to unsuccessful quoters

The FAR does not establish specific requirements for the notices; therefore, the ordering activity may tailor each notice as appropriate to the situation.

- ❖ The number of Schedule contractors solicited
- ❖ The number of quotes received
- ❖ The name and address of each Schedule contractor receiving an award
- ❖ The total price of each order
- ❖ The reason(s) why the quote was not accepted

Information to Provide to Unsuccessful Quoters

If an unsuccessful quoter requests details on the award based on factors other than price alone, the ordering activity:

- **Must** provide brief explanation of the basis for award when acquiring services requiring an SOW
- **Should** provide brief explanation of the basis for award when acquiring supplies/services not requiring an SOW
- **May** also include:
 - Significant weakness/deficiencies
 - Summary of rationale used to select contractor
 - Reasonable responses to relevant questions

If an unsuccessful quoter requests information on the award of a Schedule order or BPA that was based on factors other than price alone, the ordering activity must provide a brief explanation of the basis for the award decision for services requiring an SOW. It should provide a brief explanation of the basis for the award decision for supplies or services not requiring an SOW. The ordering activity may provide the following information:

- ❖ Any significant weaknesses or deficiencies identified in the seller's quote
- ❖ A summary of the rationale used to select the task order contractor
- ❖ Reasonable responses to relevant questions about how the evaluation criteria contained in the RFQ were used in the evaluation

Throughout the acquisition process, including when providing information to unsuccessful quoters or when establishing a date to discuss feedback, ordering activities should not use the word “debrief,” nor should they use any other FAR Part 15 procedures or terms. Using words like “proposal,” “bid,” or “debrief” at any point throughout the GSA Schedule ordering process can open the door to a formal protest on the grounds that the government was not following proper order procedures IAW FAR Subpart 8.4.

Notes

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- Note: FAR Subpart 33.1 is applicable to orders placed against GSA Schedules**

Notes

FAR 33.101 defines “protest” as a written objection by an interested party to any of the following:


- ❖ A solicitation or other request by an agency for offers for a contract for the procurement of property or services
- ❖ The cancellation of the solicitation or other request
- ❖ An award or proposed award of the contract
- ❖ A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract

Contrary to popular belief, **contractors may protest** GSA Schedule orders. The limitation for non-Schedule multiple-award IDIQs found in FAR 16.505(a)(9) does not apply to MAS contracts.

Procedural issues may include use of FAR Part 15-type procedures, versus FAR Subpart 8.4. Scope issues can arise if some of the work involved in providing a solution for a federal customer is outside the scope of the Schedule contract. Good market research should prevent this type of error. If the protest is on an “open market” item included in a Schedule order, it may be that the item is not part of the Schedule contract and it was not specifically identified as “open market.”

Responding to Protests

<u>Do</u>	<u>Do Not</u>
<ul style="list-style-type: none"><input type="checkbox"/> Ask clarifying questions<input type="checkbox"/> Conduct open communications and look for alternative resolutions<input type="checkbox"/> Provide accurate and relevant information<input type="checkbox"/> Collect relevant information<input type="checkbox"/> Request assistance from contracting personnel or legal counsel	<ul style="list-style-type: none"><input type="checkbox"/> Disclose information that is not available under FOIA<input type="checkbox"/> Disclose information that gives the seller an unfair competitive edge<input type="checkbox"/> Act arbitrarily<input type="checkbox"/> Give the impression that the Government failed in its responsibilities



Post Award Orientation

Notes

A kick-off meeting is recommended for high value and complex task orders.

Purpose

- ☐ Ensure clear understanding of contract requirements & expectations
- ☐ Build effective Government-Schedule contractor partnership

Agenda

- ☐ Goals & objectives
- ☐ Contract terms
- ☐ Management plan & QASP
- ☐ Partnership expectations
- ☐ Roles and responsibilities
- ☐ Schedules and timeframes

Best Practices

- ☐ Organized by ordering activity CO & program manager
- ☐ Held within one week of award
- ☐ Attended by individuals integral to project success



A post-award orientation, sometimes known as a kick-off meeting, aids both government and contractor personnel in achieving a clear and mutual understanding of all contract requirements and in identifying and resolving potential problems. The Contracting Officer determines whether a meeting is necessary. (See FAR Subpart 42.5 for additional information.)

The kick-off meeting is not a substitute for the contractor to fully understand the work requirements at the time quotes are submitted.

Kick-off meetings are encouraged to assist small, disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled, veteran-owned small business concerns.

Topic 2: Order Administration Functions

Order Administration Functions

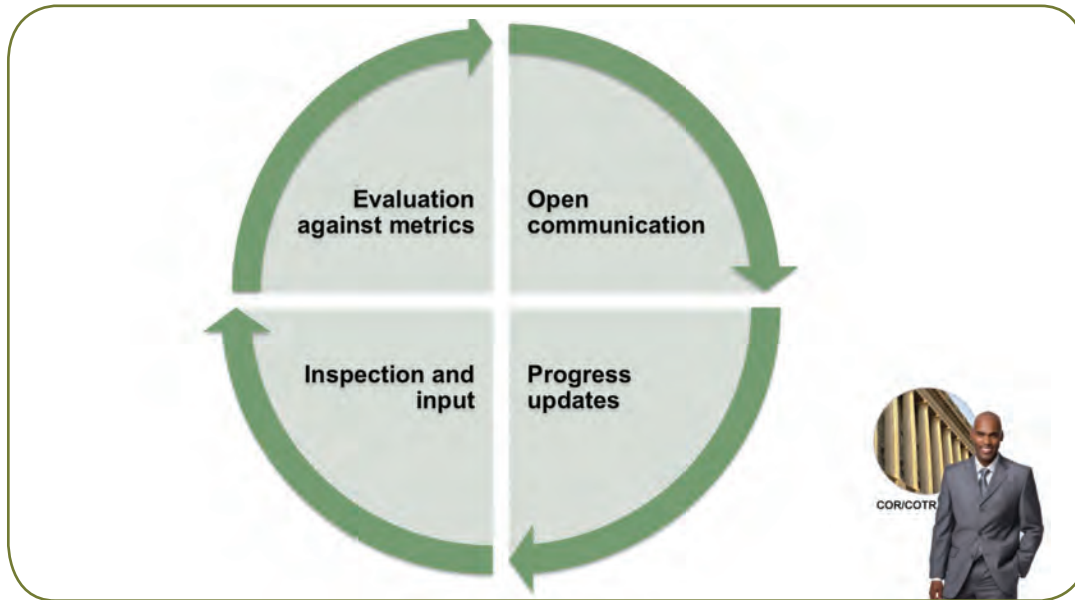
- Order administration focuses on obtaining **quality** services and supplies:
 - On time
 - Within budget
- Administration activities vary depending upon the situation but may include:
 - Monitoring contractor performance
 - Non-conformance remedies
 - Dispute resolution
 - Inspection and acceptance
 - Order/BPA modifications
 - Performance incentive payment determinations
 - Prompt payments
 - Order/BPA close-out

The Schedule user is responsible for administering Schedule orders and BPAs issued under Schedule contracts.

Schedule order or BPA administration activities vary depending upon the acquisition situation and may include monitoring contractor performance, non-conformance remedies, dispute resolution, inspection and acceptance, order/BPA modifications, performance incentives, payments, and order/BPA close-out. FAR 4.804-1 provides timeframes for closeout. Simplified acquisitions should be closed out as soon as receipt has been verified and payment has been made.

Monitoring Contractor Performance

Notes



One of the main tasks for CORs during the order administration phase is to monitor contractor performance throughout the order/BPA. Effectively monitoring performance throughout the life of the order/BPA can avoid non-conformance problems during the delivery phase. Monitoring performance consists of four aspects:

- ❖ Maintaining regular and open communications
- ❖ Receiving regular status/progress updates
- ❖ Inspecting and providing input on interim and final work
- ❖ Evaluating against performance metrics, if performance-based, or inspection and acceptance criteria

At the beginning of the contract, the ordering activity and the contractor should establish good metrics if performance-based, or fair inspection and acceptance criteria if not. Metrics provide the basis for all work, communications, and evaluations, and let both parties know if the work is meeting the agency's objectives.

To make sure that the metrics are reasonable, ordering activities should collaborate with the contractors to establish feasible measures (i.e., what yardstick will you use?) and metrics (i.e., what performance standard must the contractor meet?) that achieve the desired results.

The SMART model is useful for establishing metrics and goals for performance-based orders:

- ❖ **Specific:** Set metrics and goals that are clear, concise, and unambiguous. The metrics should describe the desired final product or end state.
- ❖ **Measurable:** Establish concrete and quantifiable metrics to determine if work is successful. When setting measurements, ensure that there is a way to confirm if the metric or performance standard is achieved.
- ❖ **Aligned:** Confirm that the goals and metrics support the acquisition goals for the order, as outlined in the acquisition plan.
- ❖ **Realistic:** Make sure that the metrics can reasonably be accomplished in the established timeframe, given the constraints. Unless needed for safety, health, technical specifications, or security reasons, achieving all metrics may not be realistic because an issue may occur in the process that can cause delays or delivery issues. Many times, the issue is beyond the contractor’s ability to adjust, such as storms, slow turnarounds, or lack of timely receipt of GFI or GFP.
- ❖ **Timed:** Set deadlines for interim and final deliverables. For ongoing service, set timeframes for completion of actions. Deadlines can be either well defined (e.g., January 5) or relative (e.g., eight weeks after contract award).

Much of the information for the metrics can be found in the Quality Assurance Surveillance Plan (QASP) that was part of the initial PWS. Between the initial QASP and communications with the contractor, a revised QASP should be developed that includes applicable performance standards, acceptable levels of performance, methods of surveillance, and incentives/disincentives. An example of a QASP framework appears below. AQL means Acceptable Quality Level. This would only apply if the government has a minimum quality level or performance standard that it is willing to accept.

Desired Outcome	Performance Std	AQL	Monitoring Method	Incentive, if Appropriate	Comments

At the kick-off meeting, the ordering activity and the contractor should establish expectations around communications:

- ❖ What kinds of progress reports are needed?
- ❖ How often do reports need to be submitted, and to whom?
- ❖ What is the communication process, including expectations for any issues that arise?
- ❖ What is the timeframe for any reviews and feedback loops?

What is the best way to communicate with each other about issues (e.g., e-mail, phone)?

Typical methods for progress updates include the following:

Notes

- ❖ Status reports
- ❖ Weekly meetings
- ❖ Action item tracking lists
- ❖ Risk tables
- ❖ Trouble tickets/databases
- ❖ Earned-value management statistics

Regular progress updates provide a forum for understanding what has been accomplished, what is about to be accomplished, and what is interfering with accomplishment.

Progress reports should focus on what has been accomplished and any obstacles preventing progress.

Reports should not be so cumbersome as to draw too much time away from performing work that achieves the contract's goals, or be too detailed, causing the reader to have information-overload. The preferred form and content of reports should be discussed at the kick-off meeting.

For deliverables associated with consulting services, inspection may involve the review of draft deliverables. These reviews are critical to the successful development of final deliverables. Contractors look at the input and feedback as guidance on the quality of the product. Providing little to no feedback on draft reviews may result in miscommunication and disappointment at the end of the task order. The contractor may believe it is tendering deliverables that meet the government's needs and the government receives products that do not actually meet its needs. Just as importantly, the lack of feedback on the contractor's side can serve as a justifiable excuse should the government wish to proceed with a termination for cause.

In most cases, the ordering activity should inspect products at the location where they were received. The inspection should focus on if the right products were received undamaged, if specifications were met, and if the right quantity arrived.

When a task order is performance-based, evaluating against metrics provides another way to determine if, and how well, the contractor is conforming to contract requirements. Metric-based evaluation provides an objective method to confirm that the contractor is meeting its obligations. Evaluation against metrics can contribute to more accurate past performance evaluations, which can help other ordering activities to make more effective best value determinations.

Ordering activities should base their evaluations on the standards described in the QASP, the contract, and any agreements established during the kick-off meeting.

Notes	Evaluation against metrics requires that quantifiable tracking methods be available and used throughout the order period. Some typical metrics include:
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- ❖ On-time delivery percentages
- ❖ Returned items percentages
- ❖ Percentage of time supplies or services adhered to technical standards or specifications
- ❖ Response rates
- ❖ Number of trouble-tickets, particularly on repetitive issues
- ❖ Customer satisfaction
- ❖ Number of complaints
- ❖ Defect rate
- ❖ Effectiveness rate
- ❖ Timeliness of service
- ❖ Length of time to resolve issues

Ordering activities are responsible for inspecting Schedule supplies or services to ensure conformance with order technical requirements. Inspection and acceptance of supplies must be performed following the requirements of FAR 8.406-2. The rights of the parties relating to defective services or supplies are set forth in the Schedule contract.

Schedule orders require contractors to tender for acceptance to those items that conform to the requirements of the order, and ultimately of the Schedule contract. The government reserves the right to inspect or test any services or supplies that have been tendered for acceptance. The government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in price.

For services, the ordering activity has a right to inspect all services IAW the contract requirements and as called for by the order. The ordering activity must perform inspections and tests as specified in the order's QASP.

For supplies, the ordering activity (or designated representative) must perform the inspection at the destination except when 1) the Schedule ordering agency requires mandatory source inspection, or 2) the Schedule item is covered by a supply description, and the ordering activity determines that the Schedule ordering agency's inspection assistance is needed.

Unless otherwise provided in the Schedule contract, acceptance is conclusive, except for:

Notes

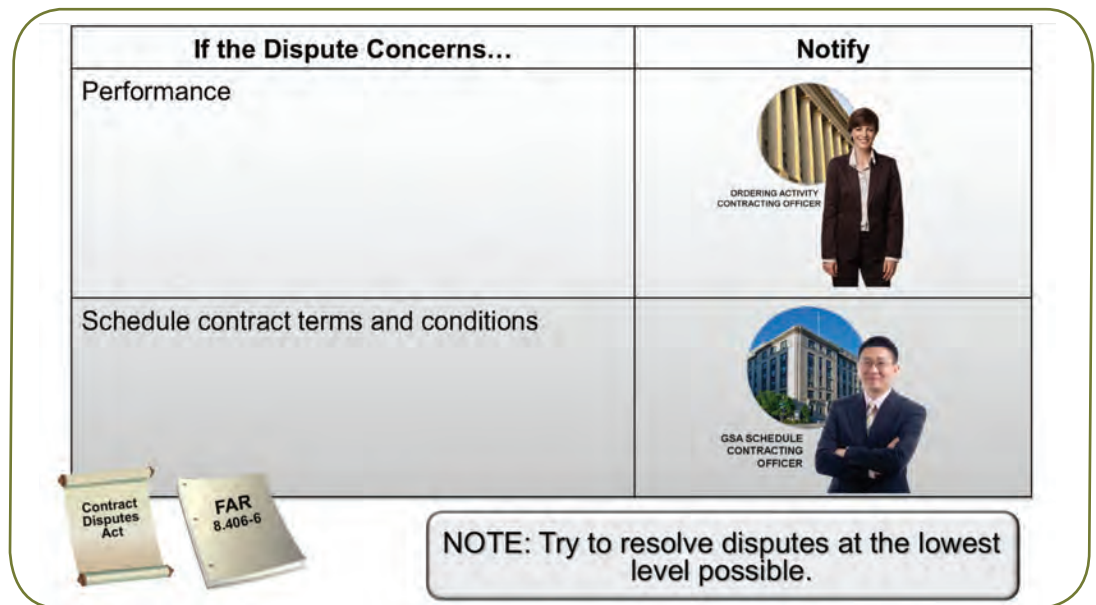
- ❖ **Latent defects:** Products that fail to meet requirements that exist at the time of acceptance but cannot be discovered by a reasonable inspection. For example, electrical equipment with internal components that do not meet item specifications.
- ❖ **Fraud:** The use of deceit or trickery to gain an unfair advantage. For example, a contractor knowingly presents for inspection the only item in a shipment that meets order requirements. If the ordering activity suspects fraud, the ordering activity must notify the Schedule Contracting Officer.
- ❖ **Gross mistakes that amount to fraud:** Acts that may have not been intentional but have the effect of deceit or trickery and the gaining of an unfair advantage. For example, a contractor performed tests to determine if equipment could be certified as having met certain commercial safety standards. The contractor's test procedures were flawed, and even though the equipment passed the test, it did not meet commercial safety standards. If the ordering activity suspects gross mistakes that amount to fraud, the ordering activity should notify the Schedule Contracting Officer.

Schedule contractors are responsible for rejected supplies. If a contractor does not remove or provide instructions for the removal of rejected supplies pursuant to the ordering activity's instructions, the ordering activity should review the Schedule contract to determine what options are available. The contractor may be liable for costs incurred by the government in taking such measures to avoid unnecessary loss to the contractor.

When a prior rejection makes re-inspection or retesting of supplies necessary, the ordering activity should review the contract to determine whether the ordering activity is authorized to assess the Schedule contractor for costs related to the re-inspection or retesting. In addition, review of information on the procedures for calculating appropriate assessment amount should be made.

Unless otherwise stated in the Schedule contract, the ordering activity may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. Ordering activities must exercise the government's post-acceptance rights within a reasonable time after the defect was discovered or should have been discovered and before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

Schedule Contract Terms and Conditions



Schedule contracts and orders are subject to the *Contract Disputes Act of 1978*, as amended. Failure of the parties to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to the Schedule contract or a Schedule order is a dispute to be resolved IAW the Schedule contract Disputes clause.

Resolution of controversial issues at the local level is generally preferable to all parties.

It is the government's policy to try to resolve all contractual issues in controversy by mutual agreement at the Contracting Officer's level. An ordering activity Contracting Officer should make a reasonable effort to resolve controversies pertaining to performance of Schedule orders prior to the submission of a claim by either party.

Ordering activity Contracting Officers are encouraged to use Alternative Dispute Resolution (ADR) procedures to the maximum extent practicable. Contracting Officers may issue a final decision on a dispute arising from performance of a Schedule order or refer the dispute to the Schedule Contracting Officer.

Ordering activity Contracting Officers must:

- ❖ Notify the Schedule Contracting Officer promptly of any final decision.
- ❖ Refer all disputes that relate to the Schedule contract terms and conditions to the Schedule Contracting Officer for resolution under the Disputes clause of the Schedule contract and notify the Schedule contractor of the referral. If there is any question about whether a dispute pertains to the performance of a Schedule order or Schedule contract terms and conditions, the Contracting Officer should consult with ordering activity legal counsel.

Contractors may appeal final decisions to either the Board of Contract Appeals (BCA) servicing the agency that issued the final decision or the U.S. Court of Federal Claims.

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The ordering activity is very limited in the type of modifications that it can make to a Schedule order, except for administrative changes. An ordering activity cannot make any:

- ❖ Substantive modification to the order requirements without the contractor's written agreement
- ❖ Additions to the order (e.g., additional quantities), unless priced options exist in the order
- ❖ Modification that does not conform to the terms and conditions of the Schedule contract (e.g., ordering activities cannot require the contractor to deliver/perform in a period shorter than the delivery/performance period set forth in the Schedule contract)
- ❖ Modification that is outside the scope of the original order

- If an ordering activity has any questions about the scope of an order, it should contact its legal counsel for guidance. In general, if an ordering activity has ordered:

- FAR 9.405-1(b) prohibits ordering activities from adding new work, exercising an option, or otherwise extending the duration of a current order if the contractor is debarred, suspended, or proposed for debarment. An exception can be made if the agency head makes a written determination of the compelling reasons for such action. Before modifying any order, the ordering activity must review the Excluded Parties List System (EPLS, at www.sam.gov) to determine whether the prospective order awardee is debarred, suspended, or proposed for debarment.

If, for any reason, an ordering activity needs to cancel one or more items on an order, the ordering activity must follow the procedures for termination for the government's convenience.

Topic 3: Order Termination

Notes

Requirements for Termination

To terminate a Schedule order:

- Review the GSA Schedule contract to identify applicable clauses prior to taking action
- Include in the order file a record of dates the Schedule contractor received notices and copies of all documentation to and from the contractor

When terminating a Schedule order, the ordering activity Contracting Officer:

- ❖ Should review the GSA Schedule contract to identify the applicable clauses before taking any action towards termination
- ❖ Must include, in the order file, a record of dates the contractor received notices. Information from the COR will support the Contracting Officer
- ❖ Should look for additional information, as needed, in FAR 52.212-4, 8.406-4, and 8.406-5

The timing of actions related to order termination can affect the rights of the parties. To clarify the timing of those actions, the order file must include a record of the date any notices described in this section are received by the contractor. When one of these notices is mailed, it must be sent by certified mail, return receipt requested. When the ordering activity arranges for hand delivery of the notice, a written acknowledgement of receipt must be obtained from the contractor. These receipts must be retained in the order file along with a copy of the related notice.

Schedule contracts contain clauses that allow ordering activities to terminate task orders with contractors. Ordering activities can terminate orders using one of two options:

- ❖ **Termination for Cause.** Cancellation of a contract or any part thereof, because the contractor defaults or fails to comply with any contract terms and conditions, or fails to provide the government, upon request, with adequate assurances of future performance.
- ❖ **Termination for Convenience.** Cancellation of a contract or any part thereof, when it is in the government's best interest to do so (e.g., when an item is no longer needed).



MAS DESK REFERENCE

For more Terminations, refer to the *MAS Desk Reference: Section 7*.

- FAR Subpart 8.406-4
- The ordering activity has the right to terminate all or part of an order when the contractor defaults or fails to comply with any of the contract terms and conditions, or fails to provide the government, upon request, with adequate assurances of future performance
- Ordering activity must notify GSA when:
 - Schedule order is terminated for cause
 - Fraud is suspected

- ❖ In the event of any default by the contractor
- ❖ If the contractor fails to comply with any contract term or condition
- ❖ If the contractor fails to provide the government (upon request) with adequate assurances of future performance

Government/Contractor Liabilities
The ordering agency is not liable for any services or supplies not accepted.

The contractor is liable for all rights and remedies provided by law. The government's preferred remedy is to acquire similar items from another contractor and to charge the defaulted contractor with any excess repurchase costs and any incidental or consequential damages incurred due to the termination.

When excess costs are anticipated, the ordering activity may withhold funds due to the contractor as offset security. Ordering activities must minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.

Notes

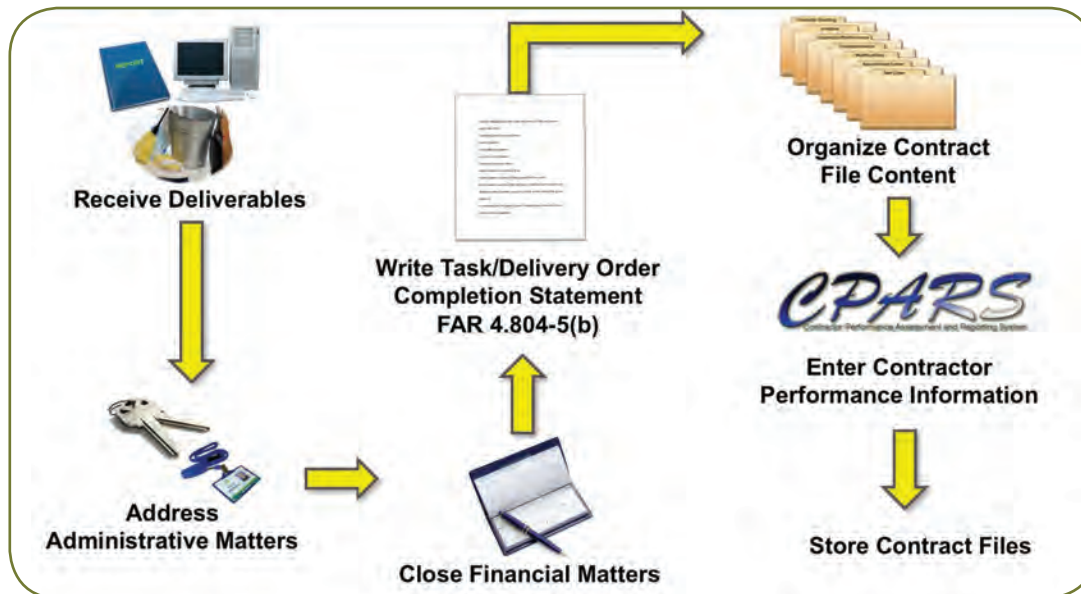
The contractor must not be required to comply with the Cost Accounting Standards Board, Cost Accounting Standards (CAS) or the contract cost principles in FAR Part 31, *Contract Cost Principles and Procedures*. The government does not have any right to audit the contractor's records solely because of the termination for convenience.

The contractor must not be paid for any work performed or costs incurred which could have been avoided.

When an ordering activity Contracting Officer terminates a GSA Schedule Labor Hour (LH) or Time and Materials (T&M) task order for the government's convenience, the contractor must be paid an amount for direct labor hours (as defined in the GSA Schedule contract and order) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the order, less any hourly rate payments already made to the contractor, plus reasonable charges the contractor can demonstrate to the satisfaction of the ordering activity, using its standard recordkeeping system, that have resulted from the termination.

Notes

Required Actions at Closeout



Contracts involving:	Timeframe for closing after completion or receipt of goods:
Simplified acquisition procedures	Immediately after final payment
FFP, without simplified acquisition procedures	6 months
Settlement of indirect costs	36 months
All other types	20 months

The closeout process ensures that all terms and conditions have been met. FAR 4.804-1 requires that contracts be closed according to the following guidelines:

- ❖ Files for contracts using simplified acquisition procedures should be considered closed when the Contracting Officer receives evidence of receipt of property and final payment has been made, unless otherwise specified by agency regulations
- ❖ Files for Firm Fixed Price (FFP) contracts, other than those using simplified acquisition procedures, should be closed within six months after the date on which the Contracting Officer receives evidence of physical completion
- ❖ Files for contracts requiring settlement of indirect cost rates should be closed within 36 months of when the Contracting Officer receives evidence of physical completion
- ❖ Files for all other contracts should be closed within 20 months of when the Contracting Officer receives evidence of physical completion

Receive and Inspect Deliverables

The first step in closing a contract is to receive and approve all final deliverables as listed in the contract. Deliverables can be either products or services.

If applicable, the government should have received technical and progress reports, inspections reports, and acceptance reports by the time the contractor delivers the final product or service.

Depending on the type of work, the government should also confirm that the following has occurred:

- ❖ Disposition of classified material has been completed
- ❖ Final patent report has been cleared
- ❖ Final royalty report has been cleared
- ❖ No outstanding value engineering change proposals remain
- ❖ Plant clearance report has been received
- ❖ Government-Furnished Property (GFP) is accounted for or disposed of IAW agency instructions

The order file should include COR receipts or acceptance letters, along with any relevant comments, for each of the deliverables. It should also include any other agency-required forms associated with acceptance of deliverables.

Address Administrative Matters

Typically, once the contractor delivers the final product or service, the contractor does not remain on-site much longer. Before the contractors leave for the last time, the COR must make sure to follow agency guidelines for collecting GFI and GFP from contractors.

At a minimum, the contractor must return ID badges, keys, parking permits, and other GFP. The contractor must either return or dispose of GFI IAW agency requirements.

Close Financial Matters

Notes

All invoices must be paid and all costs associated with the contract must be allocated or settled before close-out can occur.

The order file should include:

- ❖ All approved contractor invoices
- ❖ Any dispute clause appeals
- ❖ Any resolutions to dispute or unresolved costs
- ❖ All financial reports and related information
- ❖ Any price modifications or revisions

Order funds review must be completed. If there are excess funds, they must be de-obligated as part of the close-out process. If additional funding is needed, the file should not be closed until additional funding has been received and final payment is made. The order file should also include any other agency-required financial forms.

Write Task/Delivery Order Completion Statement

The order completion statement must include the following:

- ❖ Order administration office name and address (if different from the contracting office)
- ❖ Contracting office name and address
- ❖ Schedule contract and order number
- ❖ Last modification number
- ❖ Last call or order number
- ❖ Contractor name and address
- ❖ Dollar amount of excess funds, if any
- ❖ Voucher number and date, if final payment has been made
- ❖ Invoice number and date, if the final approved invoice has been forwarded to a disbursing office of another agency or activity and status of the payment is unknown
- ❖ A statement that all required contract administration actions have been fully and satisfactorily accomplished
- ❖ Name and signature of the Contracting Officer
- ❖ Date

Notes	When the statement is completed, the Contracting Officer must ensure that:
	❖ The signed original is placed in the Contracting Office order file (or forwarded to the contracting office for placement in the files if the contract administration office is different from the contracting office); and
	❖ A signed copy is placed in the appropriate order administration file, if administration is performed by a contract administration office.

Organize Contract File Content

IAW FAR 4.8 the head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions. The documentation in the files (see FAR 4.803) shall be sufficient to constitute a complete history of the transaction for the purpose of:

- ❖ Providing a complete background as a basis for informed decisions at each step in the acquisition process
- ❖ Supporting actions taken
- ❖ Providing information for reviews and investigations
- ❖ Furnishing essential facts in the event of litigation or congressional inquiries

The files to be established include:

- ❖ A file for cancelled solicitations
- ❖ A file for each contract and order
- ❖ A file such as a contractor general file

A contract file should generally consist of:

- ❖ The contracting office contract file that documents the basis for the acquisition and the award, the assignment of contract administration (including payment responsibilities), and any subsequent actions taken by the contracting office
- ❖ The contract administration office contract file that documents actions reflecting the basis for and the performance of order administration responsibilities
- ❖ The paying office contract file that documents actions prerequisite to, substantiating, and reflecting contract payments

Normally, each file should be kept separately; however, if appropriate, any or all of the files may be combined (e.g., if all functions or any combination of the functions are performed by the same office).

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Notes

The agency must retain copies of the evaluation, contractor response, and review comments, if any, as part of the evaluation. These evaluations may be used to support future award decisions, and should therefore be marked "Source Selection Information."

Only government personnel and the contractor whose performance is being evaluated may view the evaluation during the source selection process. Disclosure of such information could cause harm both to the commercial interest of the government and to the competitive position of the contractor being evaluated, as well as impede the efficiency of government operations.

Ordering activities must review past performance information that is less than three years old and should review information contained in the Federal Awardee Performance and Integrity Information System (FAPIS, at www.FAPIS.gov) for terminations for default or cause.

Solicited and unsolicited unsuccessful offers, quotations, bids, and proposals:

- ❖ Relating to contracts **above** the simplified acquisition threshold:
 - ❖ If filed separately from contract file, retain until contract is completed
 - ❖ If not filed separately, then retain for the same as related contract file
- ❖ Relating to contracts **at or below** the simplified acquisition threshold: one year after date of award or until final payment, whichever is later

Documents pertaining generally to the contractor as described at 4.801(c)(3):
Until superseded or obsolete

Other copies of procurement file records used by component elements of a contracting office for administrative purposes: Upon termination or completion

Investigations, cases pending or in litigation (including protests), or similar matters:
Until final clearance or settlement, or, if related to a document identified in (b)(1)-(9), for the retention period specified for the related document, whichever occurs later.



NUTS AND BOLTS TIP

If information in PPIRS is insufficient to determine acceptable past performance, the ordering activity Contracting Officer has the right to call the other agency's Contracting Officer to get a more complete picture.

Notes

Past performance information helps the government in making informed future source selection decisions by providing an explanation of a contractor's actions under previously awarded contracts and orders.

Past performance descriptions focus on how well the contractor conformed to contract requirements and to standards of good workmanship; forecasted and controlled costs; adhered to contract schedules, including the administrative aspects of performance; cooperated; acted reasonably; was committed to customer satisfaction; reported into databases; behaved with integrity and high business ethics; and generally looked out for the best interests of the customer.

Agencies must enter and store all past performance evaluations in the Past Performance Information Retrieval System (PPIRS, at www.PPIRS.gov). PPIRS is a Web-enabled, enterprise application that provides timely and pertinent contractor past performance information to the Department of Defense (DOD) and federal acquisition community for use in making source selection decisions. PPIRS assists acquisition officials by serving as the governmentwide single source for contractor past performance data.

Government access is restricted to those individuals who are working on source selections, to include contractor responsibility determinations. Contractors may view only their own data. A contractor must be registered in the Central Contractor Registration (CCR) system and must have created a Marketing Partner Identification Number (MPIN) in the CCR profile to access their PPIRS information. Ordering activities should check with their agencies about submission processes into PPIRS.

When source selection panel members need to review past performance information, they can go to the “View All Reports” feature. The members have access to review reports only while they are on the source selection panel. Once the panel finishes, the PPIRS group manager removes the panel members’ authorities to view reports. The panel members’ accounts are still in the system and may be reactivated at any time.



Answer:



- ☐ It fulfills a FAR requirement.
- ☐ It provides legal protection to the ordering activity.
- ☐ It provides an honest assessment to other governmental organizations considering hiring the contractor.



Answer:



Knowledge Check 4

An ordering activity is about to begin administering a new order. Which tasks must be performed in order administration?

- ☐ Monitoring contractor performance
- ☐ Inspecting and accepting supplies and services
- ☐ Remedying non-conformance
- ☐ Consulting industry standards for evaluating performance
- ☐ Resolving disputes
- ☐ Making payments

Notes

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Appendix

- ❖ Appendix A – FAR Subpart 8.4
- ❖ Appendix B – Blanket Purchase Agreements (BPAs)
- ❖ Appendix C – MAS Advanced Knowledge Checks Answer Key

Appendix A — FAR Subpart 8.4

Notes

FAR Subpart 8.4 – Federal Supply Schedules
Current to FAC 2005-77, Effective October 14, 2014

Subpart 8.4 – Federal Supply Schedules

8.401 Definitions.

As used in this subpart–

“Ordering activity” means an activity that is authorized to place orders, or establish blanket purchase agreements (BPA), against the General Services Administration’s (GSA) Multiple Award Schedule contracts. A list of eligible ordering activities is available at <http://www.gsa.gov/schedules> (click “For Customers Ordering from Schedules” and then “Eligibility to Use GSA Sources”).

“Multiple Award Schedule (MAS)” means contracts awarded by GSA or the Department of Veterans Affairs (VA) for similar or comparable supplies, or services, established with more than one supplier, at varying prices. The primary statutory authority for the MAS program are 41 U.S.C. 152 (3), Competitive Procedures, and 40 U.S.C. 501, Services for Executive Agencies.

“Requiring agency” means the agency needing the supplies or services.

“Schedules e-Library” means the on-line source for GSA and VA Federal Supply Schedule contract award information. Schedules e-Library may be accessed at <http://www.gsa.gov/elibrary>.

“Special Item Number (SIN)” means a group of generically similar (but not identical) supplies or services that are intended to serve the same general purpose or function.

8.402 General.

- (a) The Federal Supply Schedule program is also known as the GSA Schedules Program or the Multiple Award Schedule Program. The Federal Supply Schedule program is directed and managed by GSA and provides Federal agencies (see 8.004) with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. Indefinite delivery contracts are awarded to provide supplies and services at stated prices for given periods of time. GSA may delegate certain responsibilities to other agencies (e.g., GSA has delegated authority to the VA to procure medical supplies under the VA Federal Supply Schedules program). Orders issued under the VA Federal Supply Schedule program are covered by this subpart. Additionally, the Department of Defense (DoD) manages similar systems of schedule-type contracting for military items; however, DoD systems are not covered by this subpart.

Notes	<p>Class Deviation- 2014-O0011, Determination of Fair and Reasonable Prices When Using Federal Supply Schedule Contracts. This class deviation is effective on Mar 13, 2014, and remains in effect until incorporated in the DFARS or otherwise rescinded.</p>
	<p>8.404 – Use of Federal Supply Schedules.</p>
	<p>(a) <i>General.</i> Parts 13 (except 13.303-2(c)(3)), 14, 15, and 19 (except for the requirement at 19.202-1(e)(1)(iii)) do not apply to BPAs or orders placed against Federal Supply Schedules contracts (but see 8.405-5). BPAs and orders placed against a MAS, using the procedures in this subpart, are considered to be issued using full and open competition (see 6.102(d)(3)). Therefore, when establishing a BPA (as authorized by 13.303-2(c)(3)), or placing orders under Federal Supply Schedule contracts using the procedures of 8.405, ordering activities shall not seek competition outside of the Federal Supply Schedules or synopsise the requirement; but see paragraph (g) of this section.</p>
	<p>(b) (1) The contracting officer, when placing an order or establishing a BPA, is responsible for applying the regulatory and statutory requirements applicable to the agency for which the order is placed or the BPA is established. The requiring agency shall provide the information on the applicable regulatory and statutory requirements to the contracting officer responsible for placing the order.</p>
	<p>(2) For orders over \$500,000, see subpart 17.5 for additional requirements for interagency acquisitions. For example, the requiring agency shall make a determination that use of the Federal Supply Schedule is the best procurement approach, in accordance with 17.502-1(a).</p>
	<p>(c) <i>Acquisition planning.</i> Orders placed under a Federal Supply Schedule contract–</p>
	<p>(1) Are not exempt from the development of acquisition plans (see Subpart 7.1), and an information technology acquisition strategy (see Part 39);</p>
	<p>(2) Must comply with all FAR requirements for a bundled contract when the order meets the definition of “bundled contract” (see 2.101(b)); and</p>
	<p>(3) Must, whether placed by the requiring agency, or on behalf of the requiring agency, be consistent with the requiring agency’s statutory and regulatory requirements applicable to the acquisition of the supply or service.</p>
	<p>(d) <i>Pricing.</i> Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair). GSA has already determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by 8.405-2(d). By placing an order against a schedule contract using the procedures in 8.405, the ordering activity has concluded that the order represents the best value (as defined in FAR 2.101) and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the Government's needs. Although GSA</p>

has already negotiated fair and reasonable pricing, ordering activities may seek additional discounts before placing an order (see 8.405-4).

Notes

For DoD:

- (d) *Pricing. (DEVIATION)* Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task (e.g., installation, maintenance, and repair). GSA has determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, to be fair and reasonable for the purpose of establishing the schedule contract. GSA's determination does not relieve the ordering activity contracting officer from the responsibility of making a determination of fair and reasonable pricing for individual orders, BPAs, and orders under BPAs, using the proposal analysis techniques at 15.404-1. The complexity and circumstances of each acquisition should determine the level of detail of the analysis required.
- (e) The procedures under subpart 33.1 are applicable to the issuance of an order or the establishment of BPA against a schedule contract.
- (f) If the ordering activity issues an RFQ, the ordering activity shall provide the RFQ to any schedule contractor that requests a copy of it.
- (g) (1) Ordering activities shall publicize contract actions funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5):
 - (i) Notices of proposed MAS orders (including orders issued under BPAs) that are for "informational purposes only" exceeding \$25,000 shall follow the procedures in 5.704 for posting orders.
 - (ii) Award notices for MAS orders (including orders issued under BPAs) shall follow the procedures in 5.705.(2) When an order is awarded or a Blanket Purchase Agreement is established with an estimated value greater than the simplified acquisition threshold and supported by a limited-source justification at 8.405-6(a), the ordering activity contracting officer must–
 - (i) Publicize the action (see 5.301); and
 - (ii) Post the justification in accordance with 8.405-6(a)(2).
- (h) *Type-of-order preference for services.*
 - (1) The ordering activity shall specify the order type (i.e., firm-fixed price, time-and-materials, or labor-hour) for the services offered on the schedule priced at hourly rates.
 - (2) Agencies shall use fixed-price orders for the acquisition of commercial services to the maximum extent practicable.
 - (3) (i) A time-and-materials or labor-hour order may be used for the acquisition of commercial services only when it is not possible at the time of placing the order to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.

Notes	
	(ii) Prior to the issuance of a time-and-materials or labor-hour order, the contracting officer shall–
	(A) Execute a determination and findings (D&F) for the order, in accordance with paragraph (h)(3)(iii) of this section that a fixed-price order is not suitable;
	(B) Include a ceiling price in the order that the contractor exceeds at its own risk; and
	(C) When the total performance period, including options, is more than three years, the D&F prepared in accordance with this paragraph shall be signed by the contracting officer and approved by the head of the contracting activity prior to the execution of the base period.
	(iii) The D&F required by paragraph (h)(3)(ii)(A) of this section shall contain sufficient facts and rationale to justify that a fixed-price order is not suitable. At a minimum, the D&F shall–
	(A) Include a description of the market research conducted (see 8.404(c) and 10.002(e));
	(B) Establish that it is not possible at the time of placing the order to accurately estimate the extent or duration of the work or anticipate costs with any reasonable degree of confidence;
	(C) Establish that the current requirement has been structured to maximize the use of fixed-price orders (e.g., by limiting the value or length of the time-and-materials/labor-hour order; or, establishing fixed prices for portions of the requirement) on future acquisitions for the same or similar requirements; and
	(D) Describe actions to maximize the use of fixed-price orders on future acquisitions for the same requirements.
	(iv) Prior to an increase in the ceiling price of a time-and-materials or labor-hour order, the ordering activity shall–
	(A) Conduct an analysis of pricing and other relevant factors to determine if the action is in the best interest of the Government and document the order file;
	(B) Follow the procedures at 8.405-6 for a change that modifies the general scope of the order; and
	(C) Comply with the requirements at 8.402(f) when modifying an order to add open market items.
	(i) Ensure that service contractor reporting requirements are met in accordance with subpart 4.17, Service Contracts Inventory.

Notes

to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirement, the contracting officer shall prepare a written determination explaining that no additional contractors capable of fulfilling the requirement could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.

- (4) The ordering activity contracting officer shall ensure that all quotes received are fairly considered and award is made in accordance with the basis for selection in the RFQ.
- (e) When an order contains brand-name specifications, the contracting officer shall post the RFQ on e-Buy along with the justification or documentation, as required by 8.405-6. An RFQ is required when a purchase description specifies a brand-name.
- (f) In addition to price (see 8.404(d)) and 8.405-4), when determining best value, the ordering activity may consider, among other factors, the following:
 - (1) Past performance.
 - (2) Special features of the supply or service required for effective program performance.
 - (3) Trade-in considerations.
 - (4) Probable life of the item selected as compared with that of a comparable item.
 - (5) Warranty considerations.
 - (6) Maintenance availability.
 - (7) Environmental and energy efficiency considerations.
 - (8) Delivery terms.
- (g) *Minimum documentation.* The ordering activity shall document–
 - (1) The schedule contracts considered, noting the contractor from which the supply or service was purchased;
 - (2) A description of the supply or service purchased;
 - (3) The amount paid;
 - (4) When an order exceeds the simplified acquisition threshold, evidence of compliance with the ordering procedures at 8.405-1(d); and
 - (5) The basis for the award decision.

8.405-2 – Ordering Procedures for Services Requiring a Statement of Work.

Notes

- (a) *General.* Ordering activities shall use the procedures in this subsection when ordering services priced at hourly rates as established by the schedule contracts. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's pricelists. For establishing BPAs and for orders under BPAs see 8.405-3.
- (b) *Statements of Work (SOWs).* All Statements of Work shall include a description of work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, special knowledge). To the maximum extent practicable, agency requirements shall be performance-based statements (see subpart 37.6).
- (c) *Request for Quotation procedures.* The ordering activity must provide the Request for Quotation (RFQ), which includes the statement of work and evaluation criteria (e.g., experience and past performance), to schedule contractors that offer services that will meet the agency's needs. The RFQ may be posted to GSA's electronic RFQ system, e-Buy (see 8.402(d)).
 - (1) *Orders at, or below, the micro-purchase threshold.* Ordering activities may place orders at, or below, the micro-purchase threshold with any Federal Supply Schedule contractor that can meet the agency's needs. The ordering activity should attempt to distribute orders among contractors.
 - (2) *For orders exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold.*
 - (i) The ordering activity shall develop a statement of work, in accordance with 8.405-2(b).
 - (ii) The ordering activity shall provide the RFQ (including the statement of work and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs or document the circumstances for restricting consideration to fewer than three schedule contractors based on one of the reasons at 8.405-6(a).
 - (iii) The ordering activity shall specify the type of order (i.e., firm-fixed-price, labor-hour) for the services identified in the statement of work. The contracting officer should establish firm-fixed-prices, as appropriate.
 - (3) *For proposed orders exceeding the simplified acquisition threshold.* In addition to meeting the requirements of 8.405-2(c)(2)(i) and (iii), the following procedures apply:
 - (i) Each order shall be placed on a competitive basis in accordance with (c)(3)(ii) and (iii) of this section, unless this requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.

Notes	(ii) The ordering activity contracting officer shall provide an RFQ that includes a statement of work and the evaluation criteria.
	(iii) The ordering activity contracting officer shall–
	(A) Post the RFQ on e-Buy to afford all schedule contractors offering the required services under the appropriate multiple-award schedule(s) an opportunity to submit a quote; or
	(B) Provide the RFQ to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall prepare a written determination to explain that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.
	(C) Ensure all quotes received are fairly considered and award is made in accordance with the evaluation criteria in the RFQ.
	(4) The ordering activity shall provide the RFQ (including the statement of work and the evaluation criteria) to any schedule contractor who requests a copy of it.
	(d) <i>Evaluation.</i> The ordering activity shall evaluate all responses received using the evaluation criteria provided to the schedule contractors. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable. Place the order with the schedule contractor that represents the best value (see 8.404(d) and 8.405-4). After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.
	(e) <i>Use of time-and-materials and labor-hour orders for services.</i> When placing a time-and-materials or labor-hour order for services, see 8.404(h).
	(f) <i>Minimum documentation.</i> The ordering activity shall document–
	(1) The schedule contracts considered, noting the contractor from which the service was purchased;
	(2) A description of the service purchased;
	(3) The amount paid;
	(4) The evaluation methodology used in selecting the contractor to receive the order;
	(5) The rationale for any tradeoffs in making the selection;

- (6) The price reasonableness determination required by paragraph (d) of this subsection;
- (7) The rationale for using other than–
 - (i) A firm-fixed price order; or
 - (ii) A performance-based order; and
- (8) When an order exceeds the simplified acquisition threshold, evidence of compliance with the ordering procedures at 8.405-2(c).

Notes

8.405-3 – Blanket Purchase Agreements (BPAs).

(a) *Establishment.*

- (1) Ordering activities may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. Ordering activities shall establish the BPA with the schedule contractor(s) that can provide the supply or service that represents the best value.
- (2) In addition to price (see 8.404(d) and 8.405-4), when determining the best value, the ordering activity may consider, among other factors, the following:
 - (i) Past performance.
 - (ii) Special features of the supply or service required for effective program performance.
 - (iii) Trade-in considerations.
 - (iv) Probably life of the item selected as compared with that of a comparable item.
 - (v) Warranty considerations.
 - (vi) Maintenance availability.
 - (vii) Environmental and energy efficiency considerations.
 - (viii) Delivery terms.
- (3)
 - (i) The ordering activity contracting officer shall, to the maximum extent practicable, give preference to establishing multiple-award BPAs, rather than establishing a single-award BPA.
 - (ii) No single-award BPA with an estimated value exceeding \$103 million (including any options), may be awarded unless the head of the agency determines in writing that–
 - (A) The orders expected under the BPA are so integrally related that only a single source can reasonably perform the work;
 - (B) The BPA provides only for firm-fixed price orders for–
 - (1) Products with unit prices established in the BPA; or

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(2) Services with prices established in the BPA for specific tasks to be performed;

(C) Only one source is qualified and capable of performing the work at a reasonable price to the Government; or

(D) It is necessary in the public interest to award the BPA to a single source for exceptional circumstances.

(iii) The requirement for a determination for a single-award BPA greater than \$103 million is in addition to any applicable requirement for a limited-source justification at 8.405-6. However, the two documents may be combined into one document.

(iv) In determining how many multiple-award BPAs to establish or that a single-award BPA is appropriate, the contracting officer should consider the following factors and document the decision in the acquisition plan or BPA file:

(A) The scope and complexity of the requirement(s);

(B) The benefits of on-going competition and the need to periodically compare multiple technical approaches or prices;

(C) The administrative costs of BPAs; and

(D) The technical qualifications of the schedule contractor(s).

(4) BPAs shall address the frequency of ordering, invoicing, discounts, requirements, (e.g., estimated quantities, work to be performed), delivery locations, and time.

(5) When establishing multiple-award BPAs, the ordering activity shall specify the procedures for placing orders under the BPAs in accordance with 8.405-3(c)(2).

(6) Establishment of a multi-agency BPA against a Federal Supply Schedule contract is permitted if the multi-agency BPA identifies the participating agencies and their estimated requirements at the time the BPA is established.

(7) Minimum documentation. The ordering activity contracting officer shall include in the BPA file documentation the–

(i) Schedule contracts considered, noting the contractor to which the BPA was awarded;

(ii) Description of the supply or service purchased;

(iii) Price;

(iv) Required justification for a limited-source BPA (see 8.405-6), if applicable;

(v) Determination for a single-award BPA exceeding \$103 million, if applicable (see (a)(3)(ii));

(vi) Documentation supporting the decision to establish multiple-award BPAs or a single-award BPA (see (a)(3)(iv))	Notes
(vii) Evidence of compliance with paragraph (b) of this section, for competitively awarded BPAs, if applicable; and	
(viii) Basis for the award decision. This should include the evaluation methodology used in selecting the contractor, the rationale for any tradeoffs in making the selection, and a price reasonableness determination for services requiring a statement of work.	
(b) <i>Competitive procedures for establishing a BPA.</i> This paragraph applies to the establishment of a BPA, in addition to applicable instruction in paragraph (a).	
(1) For supplies, and for services not requiring a statement of work. The procedures of this paragraph apply when establishing a BPA for supplies and services that are listed in the schedule contract at a fixed price for the performance of a specific task, where a statement of work is not required (e.g., installation, maintenance, and repair).	
(i) If the estimated value of the BPA does not exceed the simplified acquisition threshold.	
(A) The ordering activity shall:	
(1) Consider reasonably available information about the supply or service offered under MAS contracts by surveying at least three schedule contractors through the <i>GSA Advantage!</i> [®] on-line shopping service, by reviewing the catalogs or pricelists of at least three schedule contractors, or by requesting quotations from at least three schedule contractors (see 8.405-5); or	
(2) Document the circumstances for restricting consideration to fewer than three schedule contractors based on one of the reasons at 8.405-6(a).	
(B) The ordering activity shall establish the BPA with the schedule contractor(s) that can provide the best value.	
(ii) If the estimated value of the BPA exceeds the simplified acquisition threshold. The ordering activity contracting officer;	
(A) Shall provide an RFQ that includes a description of the supplies to the delivered or the services to be performed and the basis upon which the selection will be made.	
(B) (1) Shall post the RFQ on e-Buy to afford all schedule contractors offering the required supplies or services under the appropriate multiple award schedule(s) an opportunity to submit a quote; or	
(2) Shall provide the RFQ to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be	

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received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall prepare a written determination explaining that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.

- (C) Shall ensure all quotes received are fairly considered and award is made in accordance with the basis for selection in the RFQ. After seeking price reductions (see 8.405-4), establish the BPA with the schedule contractor(s) that provides the best value.
- (D) The BPA must be established in accordance with paragraphs (b) (1)(ii)(B) and (C) of this section, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.

- (2) *For services requiring a statement of work.* This applies when establishing a BPA that requires services priced at hourly rates, as provided by the schedule contract. The applicable services will be identified in the Federal Supply Schedule publications and the contractor's pricelists.
 - (i) *Statements of Work (SOWs).* The ordering activity shall develop a statement of work. All Statements of Work shall include a description of work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements (e.g., security clearances, travel, and special knowledge). To the maximum extent practicable, agency requirements shall be performance-based statement (see subpart 37.6).
 - (ii) *Type-of-order preference.* The ordering activity shall specify the order type (i.e., firm-fixed price, time-and-materials, or labor-hour) for the services identified in the statement of work. The contracting officer should establish firm-fixed priced orders to the maximum extent practicable. For time-and-materials and labor-hour orders, the contracting officer shall follow the procedures at 8.404(h).
 - (iii) *Request for Quotation procedures.* The ordering activity must provide a RFQ, which includes the statement of work and evaluation criteria (e.g., experience and past performance), to schedule contractors that offer services that will meet the agency's needs. The RFQ may be posted to GSA's electronic RFQ system, e-Buy (see 8.402(d)).
 - (iv) If the estimated value of the BPA does not exceed the simplified acquisition threshold. The ordering activity shall provide the RFQ (including the statement of work and evaluation criteria) to at least three schedule contractors that offer services that will meet the agency's needs.

(v) If estimated value of the BPA exceeds the simplified acquisition threshold. The ordering activity contracting officer–	Notes
(A) Shall post the RFQ on e-Buy to afford all schedule contractors offering the required supplies or services under the appropriate multiple-award schedule an opportunity to submit a quote; or	
(B) Shall provide the RFQ, which includes the statement of work and evaluation criteria, to as many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements. When fewer than three quotes are received from schedule contractors that can fulfill the requirements, the contracting officer shall document the file. The contracting officer shall prepare a written determination explaining that no additional contractors capable of fulfilling the requirements could be identified despite reasonable efforts to do so. The determination must clearly explain efforts made to obtain quotes from at least three schedule contractors.	
(vi) The ordering activity contracting officer shall ensure all quotes received are fairly considered and award is made in accordance with the basis for selection in the RFQ. The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform, and for determining that the proposed price is reasonable.	
(vii) The BPA must be established in accordance with paragraph (b)(2)(iv) or (v), and with paragraph (b)(2)(vi) of this section, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6.	
(viii) The ordering activity contracting officer shall establish the BPA with the schedule contractor(s) that represents the best value (see 8.404(d) and 8.405-4).	
(3) After award, ordering activities should provide timely notification to unsuccessful offerors. If an unsuccessful offeror requests information on an award that was based on factors other than price alone, a brief explanation of the basis for the award decision shall be provided.	
(c) <i>Ordering from BPAs.</i> The procedures in this paragraph (c) are not required for BPAs established on or before May 16, 2011. However, ordering activities are encouraged to use the procedures for such BPAs.	
(1) <i>Single-award BPA.</i> If the ordering activity establishes a single-award BPA, authorized users may place the order directly under the established BPA when the need for the supply or service arises.	
(2) <i>Multiple-award BPAs.</i>	
(i) Orders at or below the micro-purchase threshold. The ordering activity may place orders at or below the micro-purchase threshold	

[illegible]

Orders exceeding the micro-purchase threshold but not exceeding the simplified acquisition threshold.

- (A) The ordering activity must provide each multiple-award BPA holder a fair opportunity to be considered for each order exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold unless one of the exceptions at 8.405-6(a)(1)(i) applies.
 - (B) The ordering activity need not contact each of the multiple-award BPA holders before placing an order if information is available to ensure that each BPA holder is provided a fair opportunity to be considered for each order.
 - (C) The ordering activity contracting officer shall document the circumstances when restricting consideration to less than all multiple-award BPA holders offering the required supplies and services.
- (iii) Orders exceeding the simplified acquisition threshold.
- (A) The ordering activity shall place an order in accordance with paragraphs (c)(2)(iii)(A)(1), (2) and (3) of this paragraph, unless the requirement is waived on the basis of a justification that is prepared and approved in accordance with 8.405-6. The ordering activity shall—
 - (1) Provide an RFQ to all BPA holders offering the required supplies or services under the multiple-award BPAs, to include a description of the supplies to be delivered or the services to be performed and the basis upon which the selection will be made;
 - (2) Afford all BPA holders responding to the RFQ an opportunity to submit a quote; and
 - (3) Fairly consider all responses received and make award in accordance with the selection procedures.
 - (B) The ordering activity shall document evidence of compliance with these procedures and the basis for the award decision.

responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable through appropriate analysis techniques, and documenting the file accordingly.

Notes

(d) *Duration of BPAs.*

- (1) Multiple-award BPAs generally should not exceed five years in length, but may do so to meet program requirements.
- (2) A single-award BPA shall not exceed one year. It may have up to four one-year options. See paragraph (e) of this section for requirements associated with option exercise.
- (3) Contractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance.

(e) *Review of BPAs.*

- (1) The ordering activity contracting officer shall review the BPA and determine in writing, at least once a year (e.g., at option exercise), whether—
 - (i) The schedule contract, upon which the BPA was established, is still in effect;
 - (ii) The BPA still represents the best value (see 8.404(d)); and
 - (iii) Estimated quantities/amounts have been exceeded and additional price reductions can be obtained.
- (2) The determination shall be included in the BPA file documentation.

8.405-4 – Price Reductions.

Ordering activities may request a price reduction at any time before placing an order, establishing a BPA, or in conjunction with the annual BPA review. However, the ordering activity shall seek a price reduction when the order or BPA exceeds the simplified acquisition threshold. Schedule contractors are not required to pass on to all schedule users a price reduction extended only to an individual ordering activity for a specific order or BPA.

8.405-5 – Small Business.

- (a) Although the preference programs of Part 19 are not mandatory in this subpart, in accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r))—
 - (1) Ordering activity contracting officers may, at their discretion—
 - (i) Set aside orders for any of the small business concerns identified in 19.000(a)(3); and
 - (ii) Set aside BPAs for any of the small business concerns identified in 19.000(a)(3).

Notes	(2) When setting aside orders and BPAs–
	(i) Follow the ordering procedures for Federal Supply Schedules at 8.405-1, 8.405-2, and 8.405-3; and
	(ii) The specific small business program eligibility requirements identified in Part 19 apply.
	(b) Orders placed against schedule contracts may be credited toward the ordering activity's small business goals. For purposes of reporting an order placed with a small business schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. Ordering activities should rely on the small business representations made by schedule contractors at the contract level.
	(c) Ordering activities may consider socio-economic status when identifying contractor(s) for consideration or competition for award of an order or BPA. At a minimum, ordering activities should consider, if available, at least one small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, women-owned small business, or small disadvantaged business schedule contractor(s). <i>GSA Advantage!</i> [®] and Schedules e-Library at http://www.gsa.gov/fas contain information on the small business representations of Schedule contractors.
	(d) For orders exceeding the micro-purchase threshold, ordering activities should give preference to the items of small business concerns when two or more items at the same delivered price will satisfy the requirement.

8.405-6 – Limited Sources.

Orders placed or BPAs established under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when restricting consideration in accordance with paragraphs (a) or (b) of this section–

- (a) Orders or BPAs exceeding the micro-purchase threshold based on a limited sources justification.
 - (1) Circumstances justifying limiting the source.
 - (i) For a proposed order or BPA with an estimated value exceeding the micro-purchase threshold not placed or established in accordance with the procedures in 8.405-1, 8.405-2, or 8.405-3, the only circumstances that may justify the action are–
 - (A) An urgent and compelling need exists, and following the procedures would result in unacceptable delays;
 - (B) Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized; or
 - (C) In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order

<p>provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order or BPA must not have been previously issued under sole-source or limited-sources procedures.</p>	<p>Notes</p> <hr/> <hr/> <hr/>
<p>(ii) See 8.405-6(c) for the content of the justification for an order or BPA exceeding the simplified acquisition threshold.</p>	<hr/> <hr/> <hr/>
<p>(2) Posting.</p>	<hr/>
<p>(i) Within 14 days after placing an order or establishing a BPA exceeding the simplified acquisition threshold that is supported by a limited-sources justification permitted under any of the circumstances under paragraph (a)(1) of this section, the ordering activity shall–</p>	<hr/> <hr/> <hr/>
<p>(A) Publish a notice in accordance with 5.301; and</p>	<hr/>
<p>(B) Post the justification–</p>	<hr/>
<p>(1) At the GPE http://www.fedbizopps.gov;</p>	<hr/>
<p>(2) On the Web site of the ordering activity agency, which may provide access to the justification by linking to the GPE; and</p>	<hr/> <hr/>
<p>(3) For a minimum of 30 days.</p>	<hr/>
<p>(ii) In the case of an order or BPA permitted under paragraph (a)(1)(i)(A) of this section, the justification shall be posted within 30 days after award.</p>	<hr/> <hr/> <hr/>
<p>(iii) Contracting officers shall carefully screen all justifications for contractor proprietary data and remove all such data, and such references and citations as are necessary to protect the proprietary data, before making the justifications available for public inspection. Contracting officers shall also be guided by the exemptions to disclosure of information contained in the Freedom of Information Act (5 U.S.C. 552) and the prohibitions against disclosure in 24.202 in determining whether other data should be removed. Although the submitter notice process set out in Executive Order 12600 “Predisclosure Notification Procedures for Confidential Commercial Information” does not apply, if the justification appears to contain proprietary data, the contracting officer should provide the contractor that submitted the information an opportunity to review the justification for proprietary data before making the justification available for public inspection, redacted as necessary. This process must not prevent or delay the posting of the justification in accordance with the timeframes required in paragraphs (a)(2)(i) and (ii) of this section.</p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>(iv) This posting requirement does not apply when disclosure would compromise the national security (e.g., would result in disclosure of classified information) or create other security risks.</p>	<hr/> <hr/> <hr/>

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- (b) *Items peculiar to one manufacturer.* An item peculiar to one manufacturer can be a particular brand name, product, or a feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer.
- (1) Brand name specifications shall not be used unless the particular brand name, product, or feature is essential to the Government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's needs.
- (2) *Documentation.*
- (i) For proposed orders or BPAs with an estimated value exceeding the micro-purchase threshold, but not exceeding the simplified acquisition threshold, the ordering activity contracting officer shall document the basis for restricting consideration to an item peculiar to one manufacturer.
- (ii) For proposed orders or BPAs with an estimated value exceeding the simplified acquisition threshold, see paragraph (c) of this section.
- (iii) The documentation or justification must be completed and approved at the time the requirement for a brand-name item is determined. In addition, the justification for a brand-name item is required at the order level when a justification for the brand-name item was not completed for the BPA or does not adequately cover the requirements in the order.
- (3) *Posting.*
- (i) The ordering activity shall post the following information along with the Request for Quotation (RFQ) to e-Buy (<http://www.ebuy.gsa.gov>):
- (A) For proposed orders or BPAs with an estimated value exceeding \$25,000, but not exceeding the simplified acquisition threshold, the documentation required by paragraph (b)(2)(i) of this section.
- (B) For proposed orders or BPAs with an estimated value exceeding the simplified acquisition threshold, the justification required by paragraph (c) of this section.
- (C) The documentation in paragraph (b)(2)(i) and the justification in paragraph (c) of this subsection is subject to the screening requirement in paragraph (a)(2)(iii) of this section.
- (iii) The posting requirement of paragraph (b)(3)(i) of this section does not apply when—
- (A) Disclosure would compromise the national security (e.g., would result in disclosure of classified information) or create other security risks. The fact that access to classified matter may be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception;

(B) The nature of the file (e.g., size, format) does not make it cost-effective or practicable for contracting officers to provide access through e-Buy; or	Notes <hr/>
(C) The agency's senior procurement executive makes a written determination that access through e-Buy is not in the Government's interest.	<hr/> <hr/>
(4) When applicable, the documentation and posting requirements in paragraphs (b)(2) and (3) of this subsection apply only to the portion of the order or BPA that requires a brand-name item. If the justification and approval is to cover only the portion of the acquisition which is brand-name, then it should so state; the approval level requirements will then only apply to that portion.	<hr/> <hr/> <hr/>
(c) An order or BPA with an estimated value exceeding the simplified acquisition threshold.	<hr/>
(1) For a proposed order or BPA exceeding the simplified acquisition threshold, the requiring activity shall assist the ordering activity contracting officer in the preparation of the justification. The justification shall cite that the acquisition is conducted under the authority of the Multiple Award Schedule Program (see 8.401).	<hr/> <hr/> <hr/>
(2) As a minimum, each justification shall include the following information:	<hr/>
(i) Identification of the agency and the contracting activity, and specific identification of the document as a "Limited Source Justification."	<hr/>
(ii) Nature and/or description of the action being approved.	<hr/>
(iii) A description of the supplies or services required to meet the agency's needs (including the estimated value).	<hr/> <hr/>
(iv) The authority and supporting rationale (see 8.405-6(a)(1)(i) and (b)(1)) and, if applicable, a demonstration of the proposed contractor's unique qualifications to provide the required supply or service.	<hr/> <hr/>
(v) A determination by the ordering activity contracting officer that the order represents the best value consistent with 8.404(d).	<hr/> <hr/>
(vi) A description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.	<hr/> <hr/>
(vii) Any other facts supporting the justification.	<hr/>
(viii) A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the restricted consideration before any subsequent acquisition for the supplies or services is made.	<hr/> <hr/> <hr/>
(ix) The ordering activity contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.	<hr/> <hr/>

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- (x) Evidence that any supporting data that is the responsibility of technical or requirements personnel (e.g., verifying the Government's minimum needs or requirements or other rationale for limited sources) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.
- (xi) For justifications under 8.405-6(a)(1), a written determination by the approving official identifying the circumstance that applies.

(d) Justification approvals.

- (1) For a proposed order or BPA with an estimated value exceeding the simplified acquisition threshold, but not exceeding \$650,000, the ordering activity contracting officer's certification that the justification is accurate and complete to the best of the ordering activity contracting officer's knowledge and belief will serve as approval, unless a higher approval level is established in accordance with agency procedures.
- (2) For a proposed order or BPA with an estimated value exceeding \$650,000, but not exceeding \$12.5 million, the justification must be approved by the advocate for competition of the activity placing the order, or by an official named in paragraph (d)(3) or (d)(4) of this section. This authority is not delegable.
- (3) For a proposed order or BPA with an estimated value exceeding \$12.5 million, but not exceeding \$62.5 million (or, for DoD, NASA, and the Coast Guard, not exceeding \$85.5 million), the justification must be approved by—
 - (i) The head of the procuring activity placing the order;
 - (ii) A designee who—
 - (A) If a member of the armed forces, is a general or flag officer;
 - (B) If a civilian, is serving in a position in a grade above GS-15 under the General Schedule (or in a comparable or higher position under another schedule); or
 - (iii) An official named in paragraph (d)(4) of this subsection.
- (4) For a proposed order or BPA with an estimated value exceeding \$62.5 million (or, for DoD, NASA, and the Coast Guard, over \$85.5 million), the justification must be approved by the senior procurement executive of the agency placing the order. This authority is not delegable, except in the case of the Under Secretary of Defense for Acquisition, Technology, and Logistics, acting as the senior procurement executive for the Department of Defense.

8.405-7 – Payment.

Agencies may make payments for oral or written orders by any authorized means, including the Governmentwide commercial purchase card (but see 32.1108(b)(2)).

Notes

8.406 – Ordering Activity Responsibilities.

8.406-1 – Order Placement.

- (a) Ordering activities may place orders orally, except for–
 - (1) Supplies and services not requiring a statement of work exceeding the simplified acquisition threshold;
 - (2) Services requiring a statement of work (SOW); and Orders containing brand-name specifications that exceed \$25,000.
- (b) Ordering activities may use Optional Form 347, an agency-prescribed form, or an established electronic communications format to order supplies or services from schedule contracts.
- (c) The ordering activity shall place orders directly with the contractor in accordance with the terms and conditions of the pricelists (see 8.402(b)). Prior to placement of the order, the ordering activity shall ensure that the regulatory and statutory requirements of the requiring agency have been applied.
- (d) Orders shall include the following information in addition to any information required by the schedule contract:
 - (1) Complete shipping and billing addresses.
 - (2) Contract number and date.
 - (3) Agency order number.
 - (4) F.o.b. delivery point; *i.e.*, origin or destination.
 - (5) Discount terms.
 - (6) Delivery time or period of performance.
 - (7) Special item number or national stock number.
 - (8) A statement of work for services, when required, or a brief, complete description of each item (when ordering by model number, features and options such as color, finish, and electrical characteristics, if available, must be specified).
 - (9) Quantity and any variation in quantity.
 - (10) Number of units.
 - (11) Unit price.
 - (12) Total price of order.
 - (13) Points of inspection and acceptance.

- Notes
- (14) Other pertinent data; *e.g.*, delivery instructions or receiving hours and size-of-truck limitation.

(15) Marking requirements.

(16) Level of preservation, packaging, and packing.

8.406-2 – Inspection and Acceptance.

- (a) *Supplies.*
- (1) Consignees shall inspect supplies at destination except when –

(i) The schedule contract indicates that mandatory source inspection is required by the schedule contracting agency; or

(ii) A schedule item is covered by a product description, and the ordering activity determines that the schedule contracting agency's inspection assistance is needed (based on the ordering volume, the complexity of the supplies, or the past performance of the supplier).

(2) When the schedule contracting agency performs the inspection, the ordering activity will provide two copies of the order specifying source inspection to the schedule contracting agency. The schedule contracting agency will notify the ordering activity of acceptance or rejection of the supplies.

(3) Material inspected at source by the schedule contracting agency, and determined to conform with the product description of the schedule, shall not be reinspected for the same purpose. The consignee shall limit inspection to kink, count, and condition on receipt.

(4) Unless otherwise provided in the schedule contract, acceptance is conclusive, except as regards latent defects, fraud, or such gross mistakes as amount to fraud.
- (b) *Services.* The ordering activity has the right to inspect all services in accordance with the contract requirements and as called for by the order. The ordering activity shall perform inspections and tests as specified in the order's quality assurance surveillance plan in a manner that will not unduly delay the work.

8.406-3 – Remedies for Nonconformance.

- (a) If a contractor delivers a supply or service, but it does not conform to the order requirements, the ordering activity shall take appropriate action in accordance with the inspection and acceptance clause of the contract, as supplemented by the order.
- (b) If the contractor fails to perform an order, or take appropriate corrective action, the ordering activity may terminate the order for cause or modify the order to establish a new delivery date (after obtaining consideration as appropriate). Ordering activities shall follow the procedures at 8.406-4 when terminating an order for cause.

8.406-4 – Termination for Cause.

Notes

- (a) (1) An ordering activity contracting officer may terminate individual orders for cause. Termination for cause shall comply with FAR 12.403, and may include charging the contractor with excess costs resulting from repurchase.
- (2) The schedule contracting office shall be notified of all instances where an ordering activity contracting officer has terminated for cause an individual order to a Federal Supply Schedule contractor, or if fraud is suspected.
- (b) If the contractor asserts that the failure was excusable, the ordering activity contracting officer shall follow the procedures at 8.406-6, as appropriate.
- (c) If the contractor is charged excess costs, the following apply:
 - (1) Any repurchase shall be made at as low a price as reasonable, considering the quality required by the Government, delivery requirement, and administrative expenses. Copies of all repurchase orders, except the copy furnished to the contractor or any other commercial concern, shall include the notation:

Repurchase against the account of _____ [insert contractor's name] under Order _____ [insert number] under Contract _____ [insert number].
 - (2) When excess costs are anticipated, the ordering office may withhold funds due the contractor as offset security. Ordering offices shall minimize excess costs to be charged against the contractor and collect or set-off any excess costs owed.
 - (3) If an ordering activity is unable to collect excess repurchase costs, it shall notify the schedule contracting office after final payment to the contractor.
 - (i) The notice shall include the following information about the terminated order:
 - (A) Name and address of the contractor.
 - (B) Schedule, contract, and order number.
 - (C) National stock or special item number(s), and a brief description of the item(s).
 - (D) Cost of schedule items involved.
 - (E) Excess costs to be collected.
 - (F) Other pertinent data.
 - (ii) The notice shall also include the following information about the purchase contract:
 - (A) Name and address of the contractor.
 - (B) Item repurchase cost.
 - (C) Repurchase order number and date of payment.

Notes	(D) Contract number, if any.
	(E) Other pertinent data.

- (d) Only the schedule contracting officer may modify the contract to terminate for cause any, or all, supplies or services covered by the schedule contract. If the schedule contracting officer has terminated any supplies or services covered by the schedule contract, no further orders may be placed for those items. Orders placed prior to termination for cause shall be fulfilled by the contractor, unless terminated for the convenience of the Government by the ordering activity contracting officer.
- (e) *Reporting.* An ordering activity contracting officer, in accordance with agency procedures, shall ensure that information related to termination for cause notices and any amendments are reported. In the event the termination for cause is subsequently converted to a termination for convenience, or is otherwise withdrawn, the contracting officer shall ensure that a notice of the conversion or withdrawal is reported. All reporting shall be in accordance with 42.1503(h).

8.406-5 – Termination for the Government's Convenience.

- (a) An ordering activity contracting officer may terminate individual orders for the Government's convenience. Terminations for the Government's convenience shall comply with FAR 12.403.
- (b) Before terminating orders for the Government's convenience, the ordering activity contracting officer shall endeavor to enter into a "no cost" settlement agreement with the contractor.
- (c) Only the schedule contracting officer may modify the schedule contract to terminate any, or all, supplies or services covered by the schedule contract for the Government' convenience.

8.406-6 – Disputes.

- (a) *Disputes pertaining to the performance of orders under a schedule contract.*
 - (1) Under the Disputes clause of the schedule contract, the ordering activity contracting officer may–
 - (i) Issue final decisions on disputes arising from performance of the order (but see paragraph (b) of this section); or
 - (ii) Refer the dispute to the schedule contracting officer.
 - (2) The ordering activity contracting officer shall notify the schedule contracting officer promptly of any final decision.
- (b) *Disputes pertaining to the terms and conditions of schedule contracts.* The ordering activity contracting officer shall refer all disputes that relate to the contract terms and conditions to the schedule contracting officer for resolution under the Disputes clause of the contract and notify the schedule contractor of the referral.

- (c) *Appeals.* Contractors may appeal final decisions to either the Board of Contract Appeals servicing the agency that issued the final decision or the U.S. Court of Federal Claims.
- (d) *Alternative dispute resolution.* The contracting officer should use the alternative dispute resolution (ADR) procedures, to the maximum extent practicable (see 33.204 and 33.214).

8.406-7 – Contractor Performance Evaluation.

Ordering activities must prepare at least annually and at the time the work under the order is completed, an evaluation of contractor performance for each order that exceeds the simplified acquisition threshold in accordance with 42.1502(c).

Notes

[illegible]

MAS BPA Streamlines the Acquisition Process

- ❖ A BPA can be set up for field offices across the nation, thus allowing them to participate in an agency-wide BPA and place orders directly with GSA Schedule contractors. In doing so, the entire agency reaps the benefits of additional discounts negotiated into the BPA.
- ❖ A multi-agency BPA may be established if the BPA identifies the participating Agencies and their estimated requirements at the time the BPA is established.

Schedule BPAs simplify the acquisition process for the ordering activity. An ordering activity does not need to synopsise requirements for purchase against a BPA. The only exception is for ARRA-funded purchases, which do require a plain-language synopsis of the acquisition need.

Schedule BPAs offer many benefits. Most importantly, Schedule BPAs help ordering activities anticipate and prepare for recurring purchasing needs, and have fewer acquisition requirements than standard contracts or traditional BPAs.

- ❖ BPAs give the ordering activity flexibility in acquiring the exact services, levels of effort, and periods of performance that it needs for acquisitions without having to go through a separate acquisition process for each purchase.
- ❖ BPAs save administrative time and money through consolidated payment and summary invoicing, thereby creating processing efficiencies.

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Notes

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Before an ordering activity can issue a task order against a Schedule BPA, the BPA must first be established. Similar to other acquisitions, a Schedule BPA has certain documentation requirements that provide a permanent record of the process used in evaluating Schedule solutions and placing the Schedule order or BPA. The documentation should be brief but detailed enough to demonstrate that the Schedule user followed the requirements of the FAR, the Schedule contract, and good business practice.

- ❖ A statement that the document is a Schedule BPA
- ❖ A statement that the Schedule BPA is issued under authority of the BPA clause in the applicable GSA Schedule contract(s), including the contract number(s)
- ❖ Identification of the organization issuing the Schedule BPA
- ❖ Identification of the contractor

Award Types

If the ordering activity establishes one BPA, authorized users may place the task order directly under the established BPA when the need for the supply or service arises.

- ❖ The frequency of orders, invoices, discounts, delivery locations and time
- ❖ Supplies or services to be ordered, and type of pricing, such as hourly rate services
- ❖ A Firm Fixed Price (FFP), Labor Hour (LH) or Time and Materials (T&M) pricing arrangement for individual task or delivery orders, as allowed in the GSA Schedule contract
- ❖ Confirmation that a single BPA contractor can meet estimated requirements
- ❖ Declaration that the government seeks to obtain the best value from a single Schedule contractor, and considering quantity discounts, administrative savings and other benefits related to reduced acquisition lead-time
- ❖ Authorized users

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One advantage of a Single Schedule BPA is all future orders are simplified because the ordering activity can go to a single vendor for all items covered by the BPA. Another advantage is vendors are enticed to provide better pricing and terms by leveraging the full value of the requirement to attract maximum competition.

Single- award BPAs may have no more than a one-year period of performance with no more than four option-years.

If the estimated value of a single-award BPA exceeds \$103 million it must be approved by the head of the agency.

Multiple-award BPAs

Multiple-award BPAs are established with more than one Schedule contractor.

Multiple-award BPAs are appropriate when the ordering activity determines that more than one BPA is necessary to meet its needs, or when the requirement is less defined.

Multiple-award BPAs require ordering activities to make two best-value evaluations:

Who receives the BPA? Who receives the task order?

The number of BPAs to be established is within the discretion of the ordering activity establishing the BPAs and should be based on a strategy that is expected to maximize the effectiveness of the BPAs. In determining how many BPAs to establish, the ordering activity should consider:

- ❖ The scope and complexity of the requirement(s)
- ❖ The need to periodically compare multiple technical approaches or prices
- ❖ The administrative costs of multiple BPAs
- ❖ The technical qualifications of the Schedule contractor(s)

If the ordering activity establishes multiple BPAs before placing an order exceeding the micro-purchase threshold, the ordering activity must forward the requirement, or SOW, and the evaluation criteria, to an appropriate number of Schedule BPA holders IAW the BPA ordering procedures. The ordering activity must evaluate the responses received, make a “Best Value” determination and place the order with the Schedule BPA holder that represents the best value.

Choosing BPA Types

When an ordering activity has a requirement, the first decision that should be made is if an MAS BPA is appropriate to use. The ordering activity compares the Performance Work Statement (PWS) to the GSA Schedules to see if there is a match.

Assuming the PWS is in-scope, the next step is to decide whether to issue a task order against a Schedule or to use a BPA. The reasoning behind using a BPA is based on whether or not the requirement is going to be recurring. If the requirement is not recurring, then the ordering activity should issue a task order, or a RFQ and submit an order based on the quotes.

If the requirement is recurring, the ordering activity must determine whether the requirement is broad or narrow. If the requirement is broad, a multiple-award BPA should be used. A single-award BPA should be used if the requirement is narrow.

Notes

BPA Specifications

The Schedule BPA must include the specifics of the agreement. The specifications should address the subjects below.

Multi-agency Schedule BPAs. Agencies can join together to create a BPA that is limited to purchasers in any of the partner agencies. The multi-agency Schedule BPA must identify the participating agencies and each agency's estimated requirements at the time the Schedule BPA is established.

BPA period. The period of the Schedule BPA may be identified with specific start and end dates or from award to the expiration date. Schedule BPAs should not exceed five years in length, but may do so to meet program requirements. A contractor may be awarded a Schedule BPA that extends beyond the current term of the applicable GSA Schedule contract if there are option periods in the Schedule contract(s), if exercised, will cover the Schedule BPA's period of performance.

FAR Subpart 8.405-3(d) requires an annual review of each Schedule BPA to determine if the BPA continues to represents the best value. It is possible to add options to a BPA, but there is no compelling reason to do so. Annual reviews are more flexible and streamlined than a full FAR Part 17 option review. A cancellation clause should be included in the BPA if issues occur so the government is able cancel the BPA.

Frequency of ordering. The frequency of ordering should be described clearly based on available information. If the frequency of ordering is identified, the Schedule user should describe the frequency in the Schedule BPA. For example, the Schedule BPA might state that orders will be issued monthly based on estimated ordering activity requirements for the following month. If the frequency of ordering is not known, the Schedule user should include a general statement that accurately describes the known information about the frequency of ordering. For example, the Schedule BPA may state that orders will be issued when requirements are identified by the ordering activity.

Delivery/performance period. When the Schedule BPA's delivery/performance period is known, the Schedule BPA should state the period. If the Schedule BPA covers a large number of services or supplies, it may be difficult or impossible to identify delivery/performance periods in the BPA. When various services will be provided based on a general Schedule BPA SOW, it may not be possible to identify the performance period in the BPA. In those cases, the Schedule BPA should state that the delivery/performance period will be identified in each BPA order.

Estimated requirements. Estimated requirements should be based on the best available estimate at the time the Schedule BPA is established. The estimates should describe the expected requirements for particular types of services or supplies over a period. The period is one year unless the Schedule BPA is for a shorter period.

The BPA should include a statement that the government is not obligated to make any purchases using the Schedule BPA. Common examples include:

- ❖ A statement such as “This Schedule BPA does not obligate any funds. The government is obligated only to the extent of authorized orders actually made under the BPA.”

- ❖ A statement such as “The government estimates, but does not guarantee, that the volume of purchases using this Schedule BPA will be \$_____. This BPA does not obligate any funds. The government is obligated only to the extent of authorized orders actually made under the BPA.”

Ordering activities may include a guaranteed minimum purchase amount in the BPA to get better pricing from the contractor. If the BPA contains such a guarantee, then the ordering activity must dedicate funds to cover the guaranteed minimum. However, it should be noted that this is not a requirement.

Delivery/performance locations. Schedule BPAs for supplies should either identify the location required for delivery or state that the location will be provided with each order. If Schedule BPA services will be performed at one or more known locations, the BPA should identify those locations. At a minimum, the Schedule BPA should identify the geographic area of BPA performance.

Price Reductions. The potential volume of orders under BPAs, regardless of the size of individual orders, offers the opportunity to secure greater discounts. FAR Subpart 8.405-4 requires Schedule users to seek price reductions:

- ❖ Before placing any order that exceeds the relevant maximum order threshold
- ❖ When the supply or service is available elsewhere at a lower price
- ❖ When establishing a BPA to fill requirements
- ❖ In conjunction with the annual BPA review
- ❖ When there are other reasons for requesting a price reduction

Any additional discounts obtained should be identified in the resulting Schedule BPA. Identification may take any form appropriate to the acquisition situation. Most often it will be a percentage reduction or a reduced price list applicable to the BPA.

Schedule contractors are not required to pass a price reduction extended to an individual ordering activity for a specific order on to all Schedule users.

Invoice address. If the contractor will submit all Schedule BPA invoices to the same address, the BPA should identify that address. If different orders will require that invoices be sent to different addresses, the Schedule BPA should state that invoices must be submitted to the address specified on each order.

Invoice consolidation. Examples of invoice consolidation requirements include the following statements:

- ❖ A summary invoice must be submitted at least monthly or upon expiration of the Schedule BPA, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets examined therein, stating their total dollar value, and supported by receipt copies of the delivery tickets
- ❖ An itemized invoice must be submitted at least monthly or upon expiration of the BPA, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received

Notes

[illegible]

Notes

- Evaluations and rationales.** When establishing MAS BPAs, the ordering activity must document the following:

- If applicable, the ordering activity must document the following:

- ### Sample BPA Format

Schedule BPA Order Placement

If the ordering activity establishes Multiple Award Schedule BPAs, each BPA should include procedures for providing BPA holders a fair opportunity to provide the services and/or supplies identified in the BPA. The ordering activity must:

- If the ordering activity establishes a BPA for hourly rate services, the ordering activity must develop an SOW for requirements covered by the BPA. All orders under the BPA shall specify a price for the performance of the tasks identified in the SOW.

SAMPLE BPA FORMAT

Notes

BPA NUMBER _____	
(CUSTOMER NAME) BLANKET PURCHASE AGREEMENT	
Pursuant to GSA Federal Supply Schedule Contract Number(s) _____ and Federal Acquisition Regulation (FAR) 8.405-3, Blanket Purchase Agreements (BPAs), the Contractor agrees to the following terms of a BPA EXCLUSIVELY WITH _____ (<i>Ordering Agency</i>):	
(1) The following contract services/products can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:	
<u>ITEM (Model/Part Number or Type of Service)</u>	<u>SPECIAL BPA DISCOUNT/PRICE</u>
_____	_____
_____	_____
(2) Delivery:	
<u>DESTINATION</u>	<u>DELIVERY SCHEDULE/DATES</u>
_____	_____
_____	_____
(3) The Government estimates, but does not guarantee, that the volume of purchases through this agreement will be _____.	
(4) This BPA does not obligate any funds.	
(5) This BPA expires on _____ or at the end of the contract period, whichever is earlier.	
(6) The following office(s) is hereby authorized to place orders under this BPA:	
<u>OFFICE</u>	<u>POINT OF CONTACT</u>
_____	_____
_____	_____
(7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, paper, or oral communications.	
(8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:	
(a) Name of Contractor;	
(b) Contract Number;	
(c) BPA Number;	
(d) Model Number or National Stock Number (NSN);	
(e) Task/Delivery Order Number;	
(f) Date of Purchase;	
(g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and	
(h) Date of Shipment.	
(9) The requirements of a proper invoice are as specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the task/delivery order transmission issued against this BPA.	
(10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.	

Notes	<p>The procedures for placing Schedule BPA orders must conform to applicable FAR, agency, and ordering activity requirements.</p> <p>Any required order element included in the Schedule BPA does not need to be included in orders under the BPA.</p> <h3>Ordering from Schedule BPAs</h3> <p>Procedures for placing orders against Schedule BPAs are outlined in FAR 8.405-3(c).</p> <p>The contents of each individual order will depend on the contents of the BPA. The required information not included in the BPA must be included in each individual order.</p> <p>There is no dollar limitation (ceiling) required for BPAs established by ordering activities with contractors under the Schedules program.</p> <p>The ordering Contracting Officer must review BPAs annually to determine whether the BPAs continue to represent the best value to the government.</p> <p>Orders placed against multiple-award BPAs should achieve “fair opportunity” in the ordering process as required by FAR 8.405-3(c).</p> <p>When a single BPA is established, subsequent task orders may be placed without additional competition against the BPA. For multiple-award BPAs, Contracting Officers subject to the DFARS and guided by the DFARS PGI 208.404-70 additional ordering procedures should send the complete RFQ (including SOW and selection criteria) to all multiple-award BPA holders.</p> <h3>Price Reductions</h3> <p>Ordering activities must seek additional price reductions, increased discounts or concessions when placing an order under a GSA Schedule contract or BPA that exceeds the simplified acquisition threshold. Contractors often will “sharpen their pencils” to obtain a large Schedule contract order. GSA Schedule contractors are not required to grant all Schedule users a price reduction extended to an individual customer for a specific order.</p> <p>The ability to seek additional price reductions and concessions allows the government not only to leverage its combined requirements to obtain favorable prices, terms, and conditions, but also to leverage agency requirements to take advantage of quantity or spot discounts available in a fluid, commercial pricing atmosphere.</p> <p>An ordering activity should try to seek further price reductions when requirements warrant reductions. Price reductions allow ordering activities to take advantage of flexible and dynamic pricing in the commercial marketplace. By requesting a price reduction, the ordering activity can maximize its use of GSA Schedule contracts by taking advantage of factors such as:</p> <ul style="list-style-type: none">❖ Competitive forces❖ Technological changes❖ Labor conditions❖ Supply and demand
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- ❖ Industry sales goals
- ❖ Inventory reductions

Notes

BPA Task Order Documentation

When placing an order from a BPA, the ordering activity must document:

- ❖ The BPA holder from which the supply or service was purchased and a description of the supply or service purchased
- ❖ The amount paid
- ❖ The fair and reasonable price determination required by FAR 8.405-2(d) for BPAs with hourly rate services
- ❖ If applicable, the rationale for using other than a Firm Fixed Price (FFP) order or a performance-based order

If ordering from multiple BPAs, in addition to the above documentation, the ordering activity shall document:

- ❖ The BPAs considered
- ❖ The evaluation methodology used in selecting the BPA holder to receive the order
- ❖ The rationale for any trade-offs in making the selection

Socioeconomic Considerations for BPAs

Just as with individual Schedule task orders, an ordering activity may consider socioeconomic factors when establishing a BPA.

Ordering activities may set aside orders against the BPA or set aside the entire BPA for small business.

If an ordering activity decides to consider socioeconomic status when identifying contractor(s) for consideration or competition for award of an order or BPA, it should, consider using at least one of the following Schedule contractor(s):

- ❖ Small business
- ❖ Veteran-owned small business
- ❖ Service-disabled, veteran-owned small business
- ❖ HUBZone small business
- ❖ Women-owned small business
- ❖ Small disadvantaged business

Notes

For purposes of reporting an order placed with a small business Schedule contractor, an ordering agency may only take credit if the awardee meets a size standard that corresponds to the work performed. The ordering activity should rely on the small business representations made by Schedule contractors at the contract level.

GSA Advantage!® and GSA eLibrary contain information on the small business representations of Schedule contractors.

BPA Annual Review

The ordering activity that established a BPA must review it at least once a year to determine whether:

- ❖ The Schedule contract upon which the BPA was established is still in effect
- ❖ The BPA continues to represents the best value
- ❖ Estimated quantities/amounts have been exceeded and additional price reductions can be obtained

The ordering activity must document the results of its review and should take appropriate action based on the results of the review. For example, the ordering activity should consider whether it is appropriate to seek additional price reductions under the current BPA or initiate a new competition for a replacement.

Appendix C — MAS Advanced Knowledge Checks

Answer Key

Notes

Lesson 1

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Knowledge Check 1

An organization requires contracting support for a new system. What are the benefits of using a GSA Schedule contract?

Answer:

- Fair and reasonable pricing
- Competitively awarded contracts
- Flexibility that provides best value
- Extensive range of products/services
- Self-service/full-service control
- Governmentwide Commercial Purchase Card
- Competitive contracting
- eTools
- Meeting agency socioeconomic goals

Knowledge Check 2

What are the characteristics of a GSA Schedule contract?

Answer:

- 20 year contract, 5 year base, three options
- IDIQ
- Competitively awarded
- Meets CICA requirements
- Commercial items
- Ordering procedures outlined in FAR 8.4
- Socioeconomic credit goes to customer

What parts of the FAR are relevant to GSA Schedule contracts?

- Subpart 6.102(d)(3): Defines orders placed against Schedules as a competitive procedure
- FAR 12 – prescribes procedures for commercial contracting. GSA awards schedules under Part 12.
- FAR 8.4 – prescribes procedures that Federal Government ordering activities must follow when issuing orders using GSA Schedules.
- Parts 13, 14, 15, and Part 19 do not apply

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What GSA system is used for posting RFIs and RFQs?

- eBay

List sources for Market Research.

- GSA eLibrary
- GSA Advantage![®]
- Green Purchasing Information (CPG)
- PPIRS
- RFIs on eBay
- General Information Sources

Lesson 3

Notes

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Knowledge Check 1

You are a Contracting Officer. One of your organizations has told you they want to acquire technical support services using a GSA Schedule. What are the pertinent acquisition considerations to determine if a GSA Schedule contract is the best solution?

Answer:

- Is the service commercial?
- Is there an agency contracting vehicle or other government sources available?
- Which GSA schedule and SINs would be used regarding scope?

Knowledge Check 2

You are a Contracting Officer. An acquisition team wants to use a Schedule contractor for the ongoing purchase of IT equipment. You suggest the organization consider a Schedule BPA. List the benefits of using a Schedule BPA.

Answer:

- Increases opportunity for:
 - o Leveraging buying power through volume purchasing
 - o Substantial discounts
 - o Faster order turnaround from streamlined procedures
 - o Ordering level terms and conditions
 - o CTAs
- Reduces:
 - o Procurement costs
 - o Acquisition lead time
 - o Administrative efforts

Lesson 4

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Knowledge Check 1

When is an order physically complete?

Answer:

- The contractor has provided required deliveries or services.
- The government has inspected and accepted the supplies or services.
- All option provisions have been exercised or have expired.
- The government has given a notice of contract termination.

Knowledge Check 2

You are a Contracting Officer. A member of the ordering activity, who has been tasked with writing the contractor evaluation, does not understand why an evaluation needs to be written. Which of the following is a benefit of past performance reporting?

- ☒ It fulfills a FAR requirement.
- ☐ It provides legal protection to the ordering activity.
- ☒ It provides an honest assessment to other governmental organizations considering hiring the contractor.

Knowledge Check 3

An acquisition team recently awarded an order. An unsuccessful quoter has requested feedback. What information should be provided?

Answer:

There are no FAR specific requirements for notification. If the agency chooses to provide feedback, it may include:

- Number of Schedule contractors solicited
- Number of quotes received
- Name and address of each Schedule contractor
- Items, quantities, and any stated unit prices
- General reason why quoter was not selected



Knowledge Check 4

An ordering activity is about to begin administering a new order. Which tasks must be performed in order administration?

- ☒ Monitoring contractor performance
- ☒ Inspecting and accepting supplies and services
- ☒ Remedying non-conformance
- ☐ Consulting industry standards for evaluating performance
- ☒ Resolving disputes
- ☒ Making payments

Notes

[illegible]



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